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REPORT OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION*

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LETTER OF TRANSMITTAL

20 August 1993

Sir,

The period 1992-1993 has been besmirched by new evidence of horrific human rights abuses stimulated by racial and ethnic hatred. These new abuses are further examples of racial discrimination as this is defined in the first article of the International Convention on the Elimination of All Forms of Racial Discrimination. Yet they are abuses of a different kind from those envisaged when the Convention was adopted in 1965. The Committee believes it important to call attention to some of the major changes it has observed, not least because some resolutions adopted by United Nations bodies continue to employ phrases that were appropriate in the resolutions of the 1960s and to use the concepts of that era even when they are not the most relevant for addressing the new circumstances.

The forms of racial discrimination which in the 1960s were regarded as most abhorrent were those of discrimination by whites against blacks. Racial discrimination was frequently described as caused by the dissemination of doctrines of racial superiority by the institutions of colonial rule and by the policies of racist regimes. The international community could counter these abuses by political means and in this way racial discrimination could be eliminated.

In 1993 we contemplate the success of policies initiated in the 1960s. The struggle against colonial rule and racist regimes has been successful even if the consequences of apartheid will continue to give trouble for a long time. New challenges started to emerge at the end of the 1980s with the disintegration of some of the larger political structures, particularly in eastern Europe, and the weakening of some structures in other regions. It is worth recalling that in the last census in the former Yugoslavia over 1 million persons did not register their membership in any national minority but counted themselves as simply Yugoslavs. Since that time, many of them have been forced by considerations of personal security to align themselves ethnically.

With the dissolution of the Soviet Union and other structures, some wider solidarities have been gravely weakened, exposing ethnic minorities to pressure from narrow nationalistic campaigns. Political movements have revived old claims to territory and incited ethnic hatred against persons of different origin. Rapid population growth, coinciding with a recession in world trade and the introduction of new technology, has changed the balance between the supply of labour and the demand for it. Increased competition for employment generates ethnic tensions in some regions, while elsewhere the weakening of public order has had comparable effects. As a result, racial or ethnic conflicts are appearing in areas previously characterized by tolerance. These forms of discrimination spring not from any belief in racial superiority but from a sense of difference. When a conflict becomes acute it is only with members of their own ethnic group that people feel secure.

Many of these confrontations have led to massive human rights violations. The Committee can look for signs of impending breakdown and has adopted a procedure for drawing any such signs to your attention. Responding to the new

His Excellency Mr. Boutros Boutros-Ghali
Secretary-General of the United Nations
New York

challenges, the Committee is broadening its horizons in step with other organs of the United Nations. It is acting on the invitation of the General Assembly to give due regard to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. It is mindful of the proclamation of the International Year of the World's Indigenous People. It will help implement the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights and will contribute to the programme of the third decade to combat racism and racial discrimination. It is working more closely with the other treaty bodies to promote the more effective functioning of the human rights treaty system.

1993 has been an important year for the Committee on the Elimination of Racial Discrimination because of the steps you have taken to resolve the Committee's financial problems, enabling us to resume our established cycle of meetings. The Committee interprets your action as a sign of confidence in its work. It draws particular attention to the initiatives it has taken in respect of the States of the former Yugoslavia and to its statement that it will in no way encourage trends for separatism or secession. In addition, paragraphs 33 to 40 of the present report describe important steps taken to improve the Committee's working methods, its dialogue with States parties, its adoption of seven General Recommendations and the preliminary consideration it has given to others.

Accept, Sir, the assurances of my highest consideration.

(*Signed*) Luis Valencia Rodriguez
Chairman
Committee on the Elimination
of Racial Discrimination

I. ORGANIZATIONAL AND RELATED MATTERS

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination

1. As at 20 August 1993, the closing date of the forty-third session of the Committee on the Elimination of Racial Discrimination, there were 137 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106 A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the forty-third session, 18 of the 137 States parties to the Convention had made the declaration envisaged in article 14, paragraph 1, of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention. Lists of States parties to the Convention and of those which have made the declaration under article 14 are contained in annex I to the present report.

B. Sessions and agenda

3. The Committee on the Elimination of Racial Discrimination held two regular sessions in 1993. The forty-second (957th-984th meetings) and forty-third (985th-1012th meetings) sessions were held at the United Nations Office at Geneva from 1 to 19 March and from 2 to 20 August 1993, respectively.

4. The agendas of the forty-second and forty-third sessions, as adopted by the Committee, are reproduced in annex II.

C. Membership and attendance

5. In accordance with the provisions of article 8 of the Convention, the States parties held their 14th meeting at United Nations Headquarters on 15 January 1992 1/ and elected nine members of the Committee from among the candidates nominated to replace those whose term of office was due to expire on 19 January 1992.

6. The list of members of the Committee for 1992-1993, including those elected or re-elected on 15 January 1992, is as follows:

Name of Member	Country of Nationality	Term expires on 19 January
Mr. Mamoud ABOUL-NASR	Egypt	1994
Mr. Hamzat AHMADU	Nigeria	1994
Mr. Michael Parker BANTON	United Kingdom of Great Britain and Northern Ireland	1994
Mr. Theodoor van BOVEN*	Netherlands	1996
Mr. Ion DIACONU*	Romania	1996
Mr. Eduardo FERRERO COSTA**	Peru	1996
Mr. Ivan GARVALOV**	Bulgaria	1996
Mr. Régis de GOUTTES	France	1994
Mr. George O. LAMPTEY	Ghana	1994
Mr. Carlos LECHUGA HEVIA	Cuba	1994
Mr. Yuri A. RECHETOV**	Russian Federation	1996
Mrs. Shanti SADIQ ALI**	India	1996
Mr. Agha SHAHI	Pakistan	1994
Mr. Michael E. SHERIFIS	Cyprus	1994
Mr. SONG Shuhua**	China	1996
Mr. Luis VALENCIA RODRIGUEZ*	Ecuador	1996
Mr. Rüdiger WOLFRUM	Germany	1994
Mr. Mario Jorge YUTZIS**	Argentina	1996

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* Elected on 15 January 1992.

** Re-elected on 15 January 1992.

7. All members of the Committee except Mr. Ahmadu attended the forty-second session. During the forty-third session, all members except Mr. Sherifis were in attendance.

D. Officers of the Committee

8. The officers elected at the forty-first session for a term of two years, in accordance with article 10, paragraph 2, of the Convention, continued to serve at the forty-second and forty-third sessions. The officers of the Committee are as follows:

Chairman: Mr. Luis VALENCIA RODRIGUEZ

Vice-Chairmen: Mr. Hamzat AHMADU
Mr. Ion DIACONU
Mrs. Shanti SADIQ ALI

Rapporteur: Mr. Michael Parker BANTON

E. Cooperation with the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization

9. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning cooperation with the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), 2/ both organizations were invited to attend the sessions of the Committee.

10. At the forty-third session, the report of the ILO Committee of Experts on the Application of Conventions and Recommendations, submitted to the International Labour Conference at its eightieth session, was made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for cooperation between the two Committees. The Committee took note with appreciation of the report of the Committee of Experts, in particular of those sections which dealt with the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Indigenous and Tribal Populations Convention, 1957 (No. 107), as well as other information in the report relevant to its activities.

II. ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-SEVENTH SESSION

11. The Committee considered this item at its 960th, 961st, 963rd, 974th, 975th and 979th meetings, held on 3, 4, 12 and 16 March 1993. For its consideration of this item, the Committee had before it the following documents:

(a) Note by the Secretary-General containing the report of the fourth meeting of persons chairing the human rights treaty bodies, held in Geneva from 12 to 16 October 1992 (A/47/628);

(b) Report of the Secretary-General on the financial situation of the Committee on the Elimination of Racial Discrimination (A/47/481);

(c) Report of the Secretary-General on the implications of providing full funding for the operation of all human rights treaty bodies (A/47/518);

(d) Reports of the Third Committee (A/47/658 and A/47/678/Add.1);

(e) Relevant summary records of the Third Committee (A/C.3/47/SR.3-10, 13, 16, 20, 25, 30, 40, 42-45, 48, 49 and 52);

(f) General Assembly resolutions 47/79 and 47/111;

(g) Working paper, adopted by the Committee on the Elimination of Racial Discrimination, on prevention of racial discrimination, including early warning and urgent procedures (CERD/C/1993/Misc.1/Rev.2);

(h) Note on draft procedures regarding the prevention of racial discrimination, including early warning and urgent procedures (CERD/C/43/Misc.3);

(i) Note by the Secretariat transmitting the interim report on the study on enhancing the long-term effectiveness of the human rights treaty regime (A/CONF.157/PC/62/Add.11/Rev.1).

A. Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention

12. In his introduction of sub-item (a) of this agenda item, the Rapporteur of the Committee observed that a large number of delegations at the General Assembly had expressed concern over the critical financial situation of the Committee. As a result, there had been wide support for the proposed amendment to the Convention that all funding for the Committee should be provided from the regular budget of the United Nations. It was particularly important that States parties notify the Secretary-General of their acceptance of the proposed amendment without delay so that the Committee's meeting schedule would not be subject to further disruption. Many delegations had also expressed support for the work of the Committee and had welcomed the new dynamism with which the Committee was monitoring the implementation of the Convention.

B. Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

13. At the 960th meeting, the Chairman of the Committee introduced the report of the fourth meeting of persons chairing the human rights treaty bodies (A/47/628), which had been held at Geneva from 12 to 16 October 1992. Attention was drawn to a number of conclusions and recommendations contained in the report which had direct implications for the work of the Committee, such as the need for adequate secretariat resources for servicing the treaty bodies; the number, nature and scope of reservations to the Convention; and, in particular, the lack of a resource room where information relevant to the work of the Committee would be available for consultation by members. Additionally, members emphasized the need to encourage wider ratification of the Convention, particularly in regard to possible successor States to former States parties.

Cooperation with the special rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related forms of intolerance

14. Members also discussed ways in which the Committee might better coordinate its work with other human rights bodies and mechanisms with a view to strengthening the impact and effectiveness of international action to combat racism and racial discrimination. In that connection, attention was drawn to the recent resolution of the Commission on Human Rights on the appointment of a special rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related forms of intolerance. Members emphasized the importance of sharing with the special rapporteur the Committee's experience and documentation in an effort to develop effective and mutually beneficial methods of consultation and cooperation. Subsequently, the Committee decided to request its Chairman to send a letter to the Chairman of the Commission on Human Rights informing him of the Committee's readiness to cooperate with the special rapporteur in matters of common concern and common responsibility. (For the text of the letter, see annex VII to the present report.)

Preventive action, including early warning and urgent procedures

15. Members noted with particular interest the conclusions and recommendations of the meeting of chairpersons concerning the role of the Security Council and the development of effective responses to emergency situations (A/47/628, paras. 42-45). In this regard, the meeting of chairpersons had concluded that,

> "... the treaty bodies have an important role in seeking to prevent as well as to respond to human rights violations. It is thus appropriate for each treaty body to undertake an urgent examination of all possible measures that it might take, within its competence, both to prevent human rights violations from occurring and to monitor more closely emergency situations of all kinds arising within the jurisdiction of States parties. Where procedural innovations are required for this purpose, they should be considered as soon as possible." (A/47/628, para. 44).

16. Members of the Committee also referred to paragraphs 38 and 39 of the report of the meeting of chairpersons, wherein the chairpersons had agreed that it would be useful to examine how violations of human rights could be effectively prevented. In that regard, the chairpersons had recommended that the treaty bodies should give further consideration to the subject and expressed the need for urgent action in order to monitor emergency situations. Members pointed out that the Secretary-General had emphasized the primary importance of preventing human rights violations before they occurred (A/47/628) and the need

to identify, at the earliest possible stage, situations that could produce conflict (A/47/277).

17. As a result of the discussion, the Committee decided, at its 961st meeting, to establish an open-ended working group on possible measures to be taken in order to prevent, as well as respond to, violations of the Convention and designated one of its members, Mr. Régis de Gouttes, as coordinator of the group.

18. At the 974th meeting, Mr. de Gouttes introduced the working group's paper on prevention of racial discrimination, including early warning and urgent procedures which, after detailed discussion, the Committee adopted at its 979th meeting to guide it in its future work. (For the text of the working paper, see annex III to the present report). In that connection, the Committee also requested its Chairman to send a letter to the Secretary-General bringing to his attention the working paper and its relevance to the observations and recommendations contained in his report on the work of the Organization (A/47/1) and "An Agenda for Peace" (A/47/277). (For the text of the letter, see annex VI to the present report.)

19. Pursuant to paragraph 12 of the working paper on preventive action, the Committee scheduled for consideration at its forty-third session possible amendments to its rules of procedure with a view to implementing the measures contained in the paper. However, owing to the lack of time, consideration of those amendments was postponed to the forty-fourth session.

III. CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

A. Status of submission of reports by States parties

1. Reports received by the Committee

20. From the establishment of the Committee on the Elimination of Racial Discrimination until the closing date of its forty-third session (20 August 1993), a total of 1,257 reports under article 9, paragraph 1, of the Convention were due from States parties, as follows: 134 initial reports, 131 second periodic reports, 128 third periodic reports, 144 fourth periodic reports, 124 fifth periodic reports, 115 sixth periodic reports, 108 seventh periodic reports, 100 eighth periodic reports, 89 ninth periodic reports, 81 tenth periodic reports, 64 eleventh periodic reports and 39 twelfth periodic reports.

21. By the end of the forty-third session a total of 913 reports had been received by the Committee as follows: 121 initial reports, 112 second periodic reports, 109 third periodic reports, 102 fourth periodic reports, 94 fifth periodic reports, 85 sixth periodic reports, 78 seventh periodic reports, 67 eighth periodic reports, 59 ninth periodic reports, 46 tenth periodic reports, 27 eleventh periodic reports and 13 twelfth periodic reports.

22. In addition, 76 supplementary reports were received from the States parties, submitted either on the initiative of the States parties concerned or at the request of the Committee.

23. During the period under review, i.e., between the closing dates of the Committee's forty-first and forty-third sessions (14 August 1992 and 20 August 1993) 62 reports were received by the Committee: 1 second periodic report, 1 third periodic report, 1 fourth periodic report, 2 fifth periodic reports, 2 sixth periodic reports, 3 seventh periodic reports, 4 eighth periodic reports, 9 ninth periodic reports, 13 tenth periodic reports, 16 eleventh periodic reports and 10 twelfth periodic reports.

24. The relevant information concerning all reports received during the period under review is set out in table 1.

25. The majority of the reports received during the period under review were not submitted on time or before the deadline provided for under article 9, paragraph 1, of the Convention. They were submitted after a delay ranging from a few weeks to several years.

Table 1. Reports received during the period under review (14 August 1992 to 20 August 1993)

State party	Type of report	Date on which the report was due	Date on which the report was submitted
Bosnia and Herzegovina	Special report	31 July 1993	29 July 1993
Canada	Eleventh report	15 November 1991	5 November 1992
Croatia	Special report	31 July 1993	4 August 1993
Egypt	Eleventh report	5 January 1990	10 August 1993
	Twelfth report	5 January 1992	10 August 1993
France	Ninth report	27 August 1988	28 May 1993
	Tenth report	27 August 1990	28 May 1993
	Eleventh report	27 August 1992	28 May 1993
Germany	Eleventh report	15 June 1990	3 February 1993
	Twelfth report	15 June 1992	3 February 1993
Holy See	Eleventh report	31 May 1990	25 January 1993
	Twelfth report	31 May 1992	25 January 1993
Iceland	Tenth report	4 January 1988	4 May 1993
	Eleventh report	4 January 1990	4 May 1993
	Twelfth report	4 January 1992	4 May 1993
Iran (Islamic Republic of)	Ninth report	4 January 1986	11 February 1993
	Tenth report	4 January 1988	11 February 1993
	Eleventh report	4 January 1990	11 February 1993
	Twelfth report	4 January 1992	11 February 1993
Italy	Eighth report	4 February 1991	9 August 1993
	Ninth report	4 February 1993	9 August 1993
Kuwait	Tenth report	5 January 1988	11 January 1993
	Eleventh report	5 January 1990	11 January 1993
	Twelfth report	5 January 1992	11 January 1993
Luxembourg	Sixth report	31 May 1989	8 April 1993
	Seventh report	31 May 1991	8 April 1993
Morocco	Ninth report	17 January 1988	22 April 1993
	Tenth report	17 January 1990	22 April 1993
	Eleventh report	17 January 1992	22 April 1993
Nigeria	Tenth report	4 January 1988	2 March 1993
	Eleventh report	4 January 1990	2 March 1993
	Twelfth report	4 January 1992	2 March 1993
Norway	Tenth report	5 September 1989	3 March 1993
	Eleventh report	5 September 1991	3 March 1993
Qatar	Eighth report	16 May 1991	26 August 1992

State party	Type of report	Date on which the report was due	Date on which the report was submitted
Romania	Ninth report	14 October 1987	30 June 1993
	Tenth report	14 October 1989	30 June 1993
	Eleventh report	14 October 1991	30 June 1993
Senegal	Ninth report	19 May 1989	17 March 1993
	Tenth report	19 May 1991	17 March 1993
Spain	Tenth report	4 January 1988	29 March 1993
	Eleventh report	4 January 1990	29 March 1993
	Twelfth report	4 January 1992	29 March 1993
Sudan	Fifth report	20 April 1986	25 January 1993
	Sixth report	20 April 1988	25 January 1993
	Seventh report	20 April 1990	25 January 1993
	Eighth report	20 April 1992	25 January 1993
Sweden	Eleventh report	5 January 1993	23 December 1992
Tonga	Ninth report	17 March 1989	7 January 1993
	Tenth report	17 March 1991	7 January 1993
Tunisia	Ninth report	4 January 1986	6 April 1993
	Tenth report	4 January 1988	6 April 1993
	Eleventh report	4 January 1990	6 April 1993
	Twelfth report	4 January 1992	6 April 1993
United Kingdom of Great Britain and Northern Ireland	Twelfth report	25 October 1992	13 October 1992
Viet Nam	Second report	9 July 1985	15 March 1993
	Third report	9 July 1987	15 March 1993
	Fourth report	9 July 1989	15 March 1993
	Fifth report	9 July 1991	15 March 1993
Yugoslavia (Serbia and Montenegro), Federal Republic of	Special report	31 July 1993	2 August 1993
Zambia	Seventh report	5 March 1985	22 February 1993
	Eighth report	5 March 1987	22 February 1993
	Ninth report	5 March 1989	22 February 1993
	Tenth report	5 March 1991	22 February 1993
	Eleventh report	5 March 1993	22 February 1993

2. Reports not yet received by the Committee

26. By the closing date of the forty-third session of the Committee, 324 reports expected from 107 States parties before that date had not yet been received. They comprised 13 initial reports, 19 second periodic reports, 19 third periodic reports, 22 fourth periodic reports, 30 fifth periodic reports, 30 sixth periodic reports, 30 seventh periodic reports, 33 eighth periodic reports, 30 ninth periodic reports, 35 tenth periodic reports, 37 eleventh

periodic reports and 26 twelfth periodic reports. In addition, one supplementary report requested by the Committee was not received. The relevant information on those reports is set out in table 2.

Table 2. Reports which were due before the closing date of the forty-third session (20 August 1993) but have not yet been received

State party	Type of report	Date on which the report was due	Number of reminders sent
Sierra Leone	Fourth report	5 January 1976	23
	Fifth report	5 January 1978	19
	Sixth report	5 January 1980	17
	Seventh report	5 January 1982	13
	Eighth report	5 January 1984	9
	Ninth report	5 January 1986	5
	Tenth report	5 January 1988	2
	Eleventh report	5 January 1990	2
	Twelfth report	5 January 1992	1
	Supplementary	31 March 1975	-
Swaziland	Fourth report	6 May 1976	24
	Fifth report	6 May 1978	20
	Sixth report	6 May 1980	18
	Seventh report	6 May 1982	12
	Eighth report	6 May 1984	8
	Ninth report	6 May 1986	3
	Tenth report	6 May 1988	2
	Eleventh report	6 May 1990	2
	Twelfth report	6 May 1992	1
Liberia	Initial report	5 December 1977	20
	Second report	5 December 1979	16
	Third report	5 December 1981	12
	Fourth report	5 December 1983	9
	Fifth report	5 December 1985	5
	Sixth report	5 December 1987	2
	Seventh report	5 December 1989	2
	Eighth report	5 December 1991	1
Guyana	Initial report	17 March 1978	20
	Second report	17 March 1980	16
	Third report	17 March 1982	12
	Fourth report	17 March 1984	9
	Fifth report	17 March 1986	5
	Sixth report	17 March 1988	2
	Seventh report	17 March 1990	2
	Eighth report	17 March 1992	1
Guinea	Second report	13 April 1980	16
	Third report	13 April 1982	12
	Fourth report	13 April 1984	8
	Fifth report	13 April 1986	3
	Sixth report	13 April 1988	2
	Seventh report	13 April 1990	2
	Eighth report	13 April 1992	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Zaire	Third report	21 May 1981	14
	Fourth report	21 May 1983	10
	Fifth report	21 May 1985	6
	Sixth report	21 May 1987	3
	Seventh report	21 May 1989	2
	Eighth report	21 May 1991	1
	Ninth report	21 May 1993	-
Gambia	Second report	28 January 1982	13
	Third report	28 January 1984	9
	Fourth report	28 January 1986	5
	Fifth report	28 January 1988	2
	Sixth report	28 January 1990	2
	Seventh report	28 January 1992	1
Côte d'Ivoire	Fifth report	4 February 1982	13
	Sixth report	4 February 1984	9
	Seventh report	4 February 1986	5
	Eighth report	4 February 1988	2
	Ninth report	4 February 1990	2
	Tenth report	4 February 1992	1
Lebanon	Sixth report	12 December 1982	11
	Seventh report	12 December 1984	7
	Eighth report	12 December 1986	4
	Ninth report	12 December 1988	2
	Tenth report	12 December 1990	1
	Eleventh report	12 December 1992	-
Gabon	Second report	30 March 1983	10
	Third report	30 March 1985	6
	Fourth report	30 March 1987	3
	Fifth report	30 March 1989	2
	Sixth report	30 March 1991	1
	Seventh report	30 March 1993	-
Togo	Sixth report	1 October 1983	9
	Seventh report	1 October 1985	5
	Eighth report	1 October 1987	2
	Ninth report	1 October 1989	2
	Tenth report	1 October 1991	1
Uganda	Second report	21 December 1983	9
	Third report	21 December 1985	5
	Fourth report	21 December 1987	2
	Fifth report	21 December 1989	2
	Sixth report	21 December 1991	1
Fiji	Sixth report	11 January 1984	8
	Seventh report	11 January 1986	4
	Eighth report	11 January 1988	2
	Ninth report	11 January 1990	2
	Tenth report	11 January 1992	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Bahamas	Fifth report	5 August 1984	8
	Sixth report	5 August 1986	4
	Seventh report	5 August 1988	2
	Eighth report	5 August 1990	2
	Ninth report	5 August 1992	1
Somalia	Fifth report	27 September 1984	8
	Sixth report	27 September 1986	5
	Seventh report	27 September 1988	3
	Eighth report	27 September 1990	2
	Ninth report	27 September 1992	-
Cape Verde	Third report	2 November 1984	8
	Fourth report	2 November 1986	5
	Fifth report	2 November 1988	3
	Sixth report	2 November 1990	2
	Seventh report	2 November 1992	-
Lesotho	Seventh report	4 December 1984	8
	Eighth report	4 December 1986	5
	Ninth report	4 December 1988	3
	Tenth report	4 December 1990	2
	Eleventh report	4 December 1992	-
Saint Vincent and the Grenadines	Second report	9 December 1984	8
	Third report	9 December 1986	5
	Fourth report	9 December 1988	3
	Fifth report	9 December 1990	2
	Sixth report	9 December 1992	-
El Salvador	Third report	30 December 1984	8
	Fourth report	30 December 1986	5
	Fifth report	30 December 1988	3
	Sixth report	30 December 1990	2
	Seventh report	30 December 1992	-
Papua New Guinea	Second report	26 February 1985	8
	Third report	26 February 1987	5
	Fourth report	26 February 1989	3
	Fifth report	26 February 1991	2
	Sixth report	26 February 1993	-
Suriname	Initial report	15 March 1985	8
	Second report	15 March 1987	5
	Third report	15 March 1989	3
	Fourth report	15 March 1991	2
	Fifth report	15 March 1993	-
Solomon Islands	Second report	17 March 1985	8
	Third report	17 March 1987	5
	Fourth report	17 March 1989	3
	Fifth report	17 March 1991	2
	Sixth report	17 March 1993	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Botswana	Sixth report	22 March 1985	8
	Seventh report	22 March 1987	5
	Eighth report	22 March 1989	3
	Ninth report	22 March 1991	2
	Tenth report	22 March 1993	-
Lao People's Democratic Republic	Sixth report	24 March 1985	7
	Seventh report	24 March 1987	4
	Eighth report	24 March 1989	3
	Ninth report	24 March 1991	1
	Tenth report	24 March 1993	-
Burkina Faso	Sixth report	18 August 1985	7
	Seventh report	18 August 1987	3
	Eighth report	18 August 1989	3
	Ninth report	18 August 1991	1
	Tenth report	18 August 1993	-
Bolivia	Eighth report	21 October 1985	6
	Ninth report	21 October 1987	3
	Tenth report	21 October 1989	3
	Eleventh report	21 October 1991	1
Guatemala	Second report	17 February 1986	6
	Third report	17 February 1988	4
	Fourth report	17 February 1990	4
	Fifth report	17 February 1992	1
Central African Republic	Eighth report	14 April 1986	6
	Ninth report	14 April 1988	4
	Tenth report	14 April 1990	4
	Eleventh report	14 April 1992	1
Mozambique	Second report	18 May 1986	6
	Third report	18 May 1988	4
	Fourth report	18 May 1990	4
	Fifth report	18 May 1992	1
Jamaica	Eighth report	5 July 1986	6
	Ninth report	5 July 1988	4
	Tenth report	5 July 1990	4
	Eleventh report	5 July 1992	1
Afghanistan	Second report	5 August 1986	6
	Third report	5 August 1988	4
	Fourth report	5 August 1990	4
	Fifth report	5 August 1992	1
Chad	Fifth report	16 September 1986	5
	Sixth report	16 September 1988	4
	Seventh report	16 September 1990	3
	Eighth report	16 September 1992	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Peru	Eighth report	30 October 1986	5
	Ninth report	30 October 1988	4
	Tenth report	30 October 1990	3
	Eleventh report	30 October 1992	-
Trinidad and Tobago	Seventh report	4 November 1986	5
	Eighth report	4 November 1988	4
	Ninth report	4 November 1990	3
	Tenth report	4 November 1992	-
Cambodia	Second report	28 December 1986	5
	Third report	28 December 1988	4
	Fourth report	28 December 1990	3
	Fifth report	28 December 1992	-
Nicaragua	Fifth report	17 March 1987	5
	Sixth report	17 March 1989	4
	Seventh report	17 March 1991	3
	Eighth report	17 March 1993	-
Sri Lanka	Third report	20 March 1987	5
	Fourth report	20 March 1989	4
	Fifth report	20 March 1991	3
	Sixth report	20 March 1993	-
Mauritius	Eighth report	29 June 1987	5
	Ninth report	29 June 1989	4
	Tenth report	29 June 1991	2
	Eleventh report	29 June 1993	-
United Arab Emirates	Seventh report	21 July 1987	4
	Eighth report	21 July 1989	4
	Ninth report	21 July 1991	2
	Tenth report	21 July 1993	-
Mali	Seventh report	15 August 1987	4
	Eighth report	15 August 1989	4
	Ninth report	15 August 1991	2
	Tenth report	15 August 1993	-
United Republic of Tanzania	Eighth report	26 November 1987	4
	Ninth report	26 November 1989	4
	Tenth report	26 November 1991	1
Barbados	Eighth report	10 December 1987	4
	Ninth report	10 December 1989	4
	Tenth report	10 December 1991	1
Brazil	Tenth report	5 January 1988	4
	Eleventh report	5 January 1990	4
	Twelfth report	5 January 1992	1
India	Tenth report	5 January 1988	4
	Eleventh report	5 January 1990	4
	Twelfth report	5 January 1992	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Pakistan	Tenth report	5 January 1988	4
	Eleventh report	5 January 1990	4
	Twelfth report	5 January 1992	1
Panama	Tenth report	5 January 1988	4
	Eleventh report	5 January 1990	4
	Twelfth report	5 January 1992	1
Venezuela	Tenth report	5 January 1988	4
	Eleventh report	5 January 1990	4
	Twelfth report	5 January 1992	1
Nepal	Ninth report	1 March 1988	4
	Tenth report	1 March 1990	4
	Eleventh report	1 March 1992	1
Madagascar	Tenth report	8 March 1988	4
	Eleventh report	8 March 1990	4
	Twelfth report	8 March 1992	1
Seychelles	Sixth report	6 April 1989	1
	Seventh report	6 April 1991	1
	Eighth report	6 April 1993	-
Ethiopia	Seventh report	25 July 1989	1
	Eighth report	25 July 1991	1
	Ninth report	25 July 1993	-
Congo	Initial report	10 August 1989	1
	Second report	10 August 1991	1
	Third report	10 August 1993	-
Antigua and Barbuda	Initial report	25 October 1989	1
	Second report	25 October 1991	1
Namibia	Fourth report	11 December 1989	1
	Fifth report	11 December 1991	1
Argentina	Eleventh report	5 January 1990	1
	Twelfth report	5 January 1992	1
Cyprus	Eleventh report	5 January 1990	1
	Twelfth report	5 January 1992	1
Hungary	Eleventh report	5 January 1990	1
	Twelfth report	5 January 1992	1
Libyan Arab Jamahiriya	Eleventh report	5 January 1990	1
	Twelfth report	5 January 1992	1
Niger	Eleventh report	5 January 1990	1
	Twelfth report	5 January 1992	1
Philippines	Eleventh report	5 January 1990	1
	Twelfth report	5 January 1992	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Yugoslavia	Eleventh report	5 January 1990	1
	Twelfth report	5 January 1992	1
Mauritania	Initial report	12 January 1990	1
	Second report	12 January 1992	1
Belarus	Eleventh report	7 May 1990	1
	Twelfth report	7 May 1992	1
Rwanda	Eighth report	16 May 1990	1
	Ninth report	16 May 1992	1
Dominican Republic	Fourth report	24 June 1990	1
	Fifth report	24 June 1992	1
Malta	Tenth report	26 June 1990	1
	Eleventh report	26 June 1992	1
Cameroon	Tenth report	24 July 1990	1
	Eleventh report	24 July 1992	1
Mongolia	Eleventh report	4 September 1990	-
	Twelfth report	4 September 1992	-
Burundi	Seventh report	26 November 1990	-
	Eighth report	26 November 1992	-
Denmark	Tenth report	8 January 1991	-
	Eleventh report	8 January 1993	-
Netherlands	Tenth report	9 January 1991	-
	Eleventh report	9 January 1993	-
China	Fifth report	28 January 1991	-
	Sixth report	28 January 1993	-
Saint Lucia	Initial report	14 February 1991	-
	Second report	14 February 1993	-
Iraq	Eleventh report	15 February 1991	-
	Twelfth report	15 February 1993	-
Cuba	Tenth report	16 March 1991	-
	Eleventh report	16 March 1993	-
Bahrain	Initial report	26 April 1991	-
	Second report	26 April 1993	-
Jordan	Ninth report	30 June 1991	-
	Tenth report	30 June 1993	-
Finland	Eleventh report	16 August 1991	-
	Twelfth report	16 August 1993	-
Portugal	Fifth report	23 September 1991	-

State party	Type of report	Date on which the report was due	Number of reminders sent
New Zealand	Tenth report	22 December 1991	-
Bulgaria	Twelfth report	5 January 1992	-
Costa Rica	Twelfth report	5 January 1992	-
Ghana	Twelfth report	5 January 1992	-
Uruguay	Twelfth report	5 January 1992	-
Haiti	Tenth report	18 January 1992	-
Israel	Seventh report	2 February 1992	-
Russian Federation	Twelfth report	5 March 1992	-
Mexico	Ninth report	22 March 1992	-
Syrian Arab Republic	Twelfth report	21 May 1992	-
Zimbabwe	Initial report	21 June 1992	-
Bangladesh	Seventh report	11 July 1992	-
Belgium	Ninth report	6 September 1992	-
Colombia	Sixth report	2 October 1992	-
Croatia	Initial report	8 October 1992	-
Australia	Ninth report	30 October 1992	-
Chile	Eleventh report	20 November 1992	-
Estonia	Initial report	20 November 1992	-
Algeria	Eleventh report	15 March 1993	-
Tonga	Eleventh report	17 March 1993	-
Latvia	Initial report	14 May 1993	-
Senegal	Eleventh report	18 May 1993	-
Maldives	Fifth report	24 May 1993	-
Luxembourg	Eighth report	1 June 1993	-
Austria	Eleventh report	8 June 1993	-
Slovenia	Initial report	6 July 1993	-
Viet Nam	Sixth report	9 July 1993	-
Greece	Twelfth report	7 August 1993	-

3. Action taken by the Committee to ensure submission of reports by States parties

27. At its forty-second and forty-third sessions, the Committee reviewed the question of delays and non-submission of reports by States parties in accordance with their obligations under article 9 of the Convention.

28. At its forty-first session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were excessively overdue. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that that review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. In implementation of those decisions, in 1992 a letter was addressed by the Chairman of the Committee to the Ministers for Foreign Affairs of 12 States parties (Afghanistan, Cambodia, Central African Republic, Chad, Guatemala, Islamic Republic of Iran, Jamaica, Mozambique, Peru, the Sudan, Trinidad and Tobago and Tunisia) informing them of the decision taken by the Committee and inviting the Governments concerned to designate a representative to participate in the consideration of their respective reports. (For the text of the letter, see A/47/18, annex VI.) Of those 12 States parties, three (Islamic Republic of Iran, Tunisia and the Sudan), submitted a report before the closing date of the forty-third session, two (Chad and Jamaica) sent a delegation to participate in the scheduled review and four (Afghanistan, Guatemala, Peru and Trinidad and Tobago) requested postponement of the review pending the submission of the requested report. The Committee decided that that practice should be continued at its forty-fourth session and requested its Chairman to address a similar letter to an additional seven States (Barbados, Mali, Mauritius, Nicaragua, Sri Lanka, United Arab Emirates and United Republic of Tanzania) whose reports were excessively overdue.

29. At its 984th meeting, the Committee decided to request further information by 31 July 1993 from two States parties, Croatia and Yugoslavia (Serbia and Montenegro), where continuing ethnic conflict was a cause for concern. In its decision, the Committee also encouraged the Government of Bosnia and Herzegovina to confirm to the Secretary-General its adherence to the Convention and, if it proceeded accordingly, to submit information by 31 July 1993 on the implementation of the Convention. (For the Committee's decision in this matter, see chapter VIII A of the present report.) All three of the States concerned submitted the requested information, which was subsequently considered by the Committee at its forty-third session.

30. The Committee further decided to request the Secretary-General, in accordance with rule 66, paragraph 1, of the rules of procedure of the Committee, to continue sending appropriate reminders to States parties from which two or more reports were due but had not been received before the closing date of its forty-third session, asking them to submit their reports by 31 December 1993. The Committee agreed that the reminders to be sent by the Secretary-General should indicate that all overdue reports could be submitted in one consolidated document. (States parties whose reports are overdue are listed in table 2 above.)

31. In that connection, the Committee wished to recall once again that rule 66 of its rules of procedure provided that:

> "1. At each session, the Secretary-General shall notify the Committee of all cases of non-receipt of reports or additional information, as the case may be, provided for under article 9 of the Convention. The Committee, in such cases, may transmit to the State party concerned, through the Secretary-General, a reminder concerning the submission of the report or additional information.
>
> "2. If, even after the reminder referred to in paragraph 1 of this rule, the State party does not submit the report or additional information required under article 9 of the Convention, the Committee shall include a reference to this effect in its annual report to the General Assembly."

32. The Committee also wished to repeat once again a statement that it made at its first session and that was communicated to all States parties and to the General Assembly:

> "The Committee attaches great importance to these reports. It is unanimously of the view that, being a principal source of information, these reports provide the Committee with an essential element for discharging one of its most important responsibilities, namely, reporting to the General Assembly of the United Nations under article 9, paragraph 2, of the Convention." 3/

B. Consideration of reports

33. At its forty-second and forty-third sessions the Committee considered 36 reports submitted by 23 States parties under article 9 of the Convention. Consideration of the eleventh periodic report of Canada, which was initially scheduled for the forty-third session, was postponed to the forty-fourth session at the request of the Government of Canada.

34. The Committee devoted 57 of the 65 meetings held in 1993 to the discharge of its obligations under article 9 of the Convention.

35. In accordance with rule 64 of its rules of procedure, the Committee continued the practice, started at its sixth session, of requesting the Secretary-General to inform States parties concerned of the dates on which their respective reports would be considered by the Committee and inviting them to send representatives to participate in the examination of their respective reports.

36. At its fortieth session, the Committee initiated the practice of adopting concluding observations by the Committee as a whole on each report it considered. During the forty-second and forty-third sessions, this practice was continued and the working methods of the Committee were further refined in order to obtain greater consistency in the texts adopted. As will be noted later in this report, the concluding observations adopted at the forty-third session were more elaborate. Although significant progress was achieved in this regard, the Committee will continue at future sessions in its efforts to improve its working methods further.

37. At its forty-first session, the Committee continued to follow its practice of using country rapporteurs in the course of the examination of reports submitted by States parties (see annex X). This procedure had been decided upon at the thirty-sixth session, with a view to improving and streamlining the

Committee's method of examining reports. The Committee considered that the system of country rapporteurs had reduced the time needed for the consideration of reports and had enhanced the dialogue with representatives of States parties. The Committee noted with satisfaction that it had developed a fruitful dialogue with representatives of reporting States present at its meetings and urged that all States parties should endeavour to send representatives when their reports were being examined.

38. At its forty-second session, the Committee considered 11 draft general recommendations, 7 of which were adopted as revised during the discussions. The general recommendations adopted by the Committee concerned non-citizens; the training of law enforcement officials; adherence to the Convention by successor States; article 1.1 of the Convention; article 4 of the Convention; the application of article 9 of the Convention; and national institutions to facilitate the implementation of the Convention. (For the text of those general recommendations, see chapter VIII B of the present report.) The Committee decided to postpone until a future session the further consideration of four other draft general recommendations which concerned public life, effectiveness, segregation and State policies.

39. At its 984th meeting, the Committee adopted an amendment to its general guidelines regarding the form and contents of reports to be submitted by States parties under article 9, paragraph 1, of the Convention. The revision, which consisted of the insertion, under part II, of a new paragraph concerning information on the ethnic characteristics of the country, is contained in document CERD/C/70/Rev.3.

40. In discharging its obligations under article 9, paragraph 2, of the Convention, the Committee examined the reports and information received from States parties. Members had their own sources of information but they also benefitted from other sources, including non-governmental organizations and, in particular, the recently established Anti-Racism Information Service (ARIS).

41. The following paragraphs, arranged on a country-by-country basis according to the sequence followed by the Committee in its consideration of the reports of States parties, contained summaries based on the summary records of the meetings at which the reports were considered. Further information is contained in the reports submitted by the States parties and in the summary records of the relevant meetings of the Committee.

Ukraine

42. The eleventh and twelfth reports of Ukraine (CERD/C/197/Add.5 and CERD/C/226/Add.3) were considered by the Committee at its 958th, 959th and 983rd meetings, held on 2 and 18 March 1993 (CERD/C/SR.958, 959 and 983).

43. The reports were introduced by the representative of the State party, who provided information on the legislation adopted in Ukraine since the submission of its previous report. The Ukrainian Parliament had declared that all laws adopted by the State to which Ukraine was the successor would remain in force as long as they were not in contradiction with new legislation. All obligations entered into by Ukraine after ratification by the Parliament had become an integral part of the State's domestic law.

44. The representative indicated that since the submission of the previous report, 122 acts and 336 decrees or legislative texts concerning the Convention had been adopted. These included, in particular, the Act on the Rehabilitation of Victims of Political Repression in Ukraine; the Act relating to the security

services; the Act on Citizens' Associations; the Act on National Minorities in Ukraine; the Employment Act; and the Act on Citizenship of Ukraine.

45. The representative informed the Committee that as part of judicial reform a constitutional court had been set up to rule on the constitutionality of laws and other legislative acts. Under the Constitution, the Parliamentary Ombudsman for Human Rights was vested with the power to refer matters to the Constitutional Court in cases where the State had interfered with the constitutional rights and freedoms of citizens.

46. However, despite all the legislative measures adopted by Ukraine, human rights violations on national or religious grounds, as well as conflicts between national groups, did occur at times. The complex situation in which Ukraine currently found itself, characterized by hyperinflation and a dramatic drop in the standard of living, created tensions which, when combined with national, religious and other factors, might give rise to conflicts or human rights violations. The Ukrainian authorities, at both the national and local levels, were trying to reduce friction between nationalities; as a result Ukraine was free from large-scale open conflict between different groups.

47. Members of the Committee welcomed the timely submission by Ukraine of its twelfth report, which included useful information on recent changes in the country. However, while it provided a good overall view of the present situation, the report contained some extraneous material and did not always specify exactly the extent to which the Convention was being implemented. They asked the delegation whether the provisions of the Convention were directly applicable in a court of law; what the situation was with respect to the envisaged establishment of German colonies on Ukrainian territory; whether Ukraine planned to conclude agreements with other countries on the rights of minorities such as the one it had signed with Hungary in May 1991; and whether Jewish emigration from Ukraine was continuing and, if so, whether the persons concerned emigrated without passports and why. Further information was requested about the situation in Crimea, in particular demographic data on the size of each population group in 1920, 1940 and 1990, and on the content of the Act on the Status of the Crimean Autonomous Republic. Members were concerned that the human rights of the population of Pridnestrovye had been violated and that the Crimean Tartar problem had not yet been solved. They also wished to know whether there was an accepted definition of the term "minority" in Ukraine and, if so, whether it covered national as well as ethnic, religious or linguistic minorities.

48. With respect to article 2 of the Convention, members of the Committee asked what the Government of Ukraine was doing to encourage integrationist multiracial organizations and movements. They indicated, with reference to article 2.1 of the Convention, that the policy adopted by a State party with regard to the elimination of racial discrimination should be set down in a clear and comprehensive written document which should be brought to the attention of the public and of the persons responsible for the implementation of the policy.

49. Concerning article 3 of the Convention, members of the Committee wished to have more detailed information about the country's attitude with regard to the sanctions against South Africa. They asked whether Ukraine was in favour of maintaining those sanctions and whether it had diplomatic relations with South Africa.

50. With regard to article 4 of the Convention, members of the Committee indicated that although the Convention had been incorporated into Ukrainian domestic law, legislation still had to be enacted to implement the punitive provisions of article 4. In that connection, they noted that a new version of

article 66 of the Criminal Code neither prohibited racist organizations nor prevented official bodies from engaging in racial discrimination.

51. With respect to article 5 of the Convention, members of the Committee wished to know more about the rights of individuals belonging to the various ethnic groups; how those groups took part in the executive and legislative powers and, if such participation was provided for by law, whether there were any quotas; whether Ukraine authorized the formation of political parties based on ethnic origin; and what the position was of the Ukrainian legislature regarding dual citizenship.

52. With reference to article 6 of the Convention, members asked how it had been possible that, in 1991, no one had been convicted under article 66 of the Criminal Code; whether any complaints of racial discrimination had been brought; and whether the public was sufficiently aware of article 66. Members noted that the three-year limit for the submission of compensation claims by victims of repression by the previous regime was too short.

53. Concerning article 7 of the Convention, members of the Committee noted that the section of the report dealing with the implementation of that article did not contain sufficient information. Members of the Committee wanted to know exactly what steps Ukraine was taking in the areas of teaching, education, culture and information to combat prejudice which gave rise to racial discrimination and, more generally, to give effect to article 7 of the Convention.

54. With respect to article 14 of the Convention, members of the Committee particularly welcomed the fact that Ukraine had recognized the competence of the Committee to receive and to consider communications from individuals or groups of individuals claiming to be victims of a violation of any of the rights set forth in the Convention.

55. The representative of the State party, replying to the questions asked and comments made by members of the Committee, said that the views of the members of the Committee would be an important factor in future efforts by the Government to establish conditions for the implementation of the provisions of the Convention. The way in which reports were considered by the Committee enabled States parties to consider their domestic legislation from a more critical standpoint and to remedy shortcomings.

56. He further stated that as a result of the ratification by Ukraine of international human rights instruments, those instruments had been incorporated into Ukrainian law and could be invoked in courts of law. However, rules of principle could not be applied automatically or directly unless they were supported by the necessary practical machinery for their implementation, and a great deal of domestic legislation still had to be adopted for that purpose. In regard to demographic data, that information would be provided in table form in the next periodic report.

57. The representative provided the Committee with detailed information on the issues relating to the Crimea and the Pridnestrovye region, emphasizing that the problem of Crimea was based not on issues of nationality or race, but rather on political conflicts and that therefore it did not come within the scope of the Convention. He explained the situation with regard to emigration to Israel, indicating that, in spite of the efforts undertaken by the Government, emigration continued because life was hard in Ukraine and the prospects of better living conditions always prompted departure. Individuals emigrating from Ukraine maintained their right to Ukrainian citizenship and kept their Ukrainian passports. The representative further explained that article 1 of the Ukrainian

law on nationality had maintained the rule set forth in the Constitution of the former Soviet Union granting a single nationality to the inhabitants of Ukraine. However, dual citizenship could be granted on the basis of intergovernmental agreements and the Russian Federation and Ukraine were currently engaged in negotiations to that end.

58. Under the Act on National Minorities, Ukraine had established a special ministry at the national level for dealing with the problems of national groups. In addition, it was also possible to form voluntary advisory bodies made up of representatives of national minorities. The Act defined a national minority as a group of Ukrainian citizens who were not Ukrainian by nationality and who shared a sense of national self-identification and community. According to that definition, members of religious denominations, such as Catholics, or members of linguistic minorities, were not considered national minorities.

59. With regard to article 3 of the Convention, the representative said that in March 1992 an agreement had been reached on the establishment of diplomatic relations between Ukraine and the Republic of South Africa. At the same time, Ukraine was fully committed to implementing the Security Council decisions which had been taken with regard to South Africa.

60. Referring to article 5 of the Convention, the representative said that the problems of religion and freedom of expression which had arisen were often due to the dire economic situation and particularly to the very high rate of inflation, rather than genuine religious discrimination. He further stated that cultural organizations specific to an ethnic group were permissible, but political parties based on ethnicity were not legal since membership would necessarily be discriminatory. Quotas for different nationalities in the Ukrainian Parliament had existed in the past, but now all deputies were elected freely and a wide range of nationalities were represented in the Parliament.

61. With respect to article 6 of the Convention, the representative confirmed that there had been no convictions under article 66 of the Criminal Code since 1991.

62. As far as article 7 of the Convention was concerned, the representative declared that the Convention had been promulgated in the Gazette of the Supreme Council, along with other human rights instruments. It had also been translated into Ukrainian and could be found in libraries and other places freely accessible to the public.

Concluding observations

63. The Committee commended the regularity with which the Government of Ukraine had reported on the implementation of the Convention, for the high quality of its delegation's replies to questions and for its candour in acknowledging deficiencies.

64. The Committee noted the broad range of information provided in the twelfth periodic report on historic changes taking place in Ukraine, its support on the international scene for the protection of human rights and especially national minorities, and its adoption of legal instruments for developing democracy and strengthening the rule of law. It was nevertheless felt that demographic data could have been presented in a more illustrative way. Hope was expressed that the existing situation of unrest there would be resolved with respect for human rights and for the rights of ethnic minorities.

65. Regarding article 3 of the Convention, the Committee considered that Ukraine's stand on sanctions in regard to South Africa should have been clarified. More information was requested on article 4, in accordance with general recommendation IV. It was also considered that information offered concerning article 7 on measures taken in the fields of teaching and education should have been in accordance with general recommendation V.

Algeria

66. The Committee considered the tenth periodic report of Algeria (CERD/C/209/Add.4) at its 962nd, 963rd and 983rd meetings, held on 4 and 18 March 1993 (see CERD/C/SR.962, 963 and 983).

67. The report was introduced by the representative of the State party who underlined his country's support for the fight against racism and racial discrimination and, in particular, against apartheid.

68. The representative stated that the Constitution adopted by referendum on 23 February 1989 contained new provisions providing for political pluralism, an independent judiciary and voting by secret ballot. It also prohibited all forms of racial discrimination, for which sanctions were foreseen in legislation. Although the current state of emergency represented a difficult period for Algeria, it in no way affected the country's traditional struggle against racial discrimination, nor the determination of the Algerian people to defend the cause of liberty, justice and equality.

69. Members of the Committee welcomed the report of the State party, which contained useful information on the constitutional and legislative basis for the implementation of the Convention. Members noted, however, that more information was needed on the actual application of the Convention, particularly in the courts, and on economic, social and demographic developments which had occurred in the country. Further information was needed on factors and difficulties encountered in the application of the Convention. Further information was also required regarding the composition of the population with regard to minorities, most notably Berbers, Tuaregs, Jews and the black population which inhabited the southern region of Algeria. With respect to the last-named group, it was pointed out that black Algerians appeared to be particularly disadvantaged in terms of access to housing and education. Members of the Committee also wished to know which minorities the Government recognized as such.

70. It was noted that important progress had been achieved in the application of the Convention since Algeria last presented a report in 1987, particularly as a result of the new Constitution adopted in 1989. In connection with the Constitution and national legislation in general, members wished to know what was the status of the Convention in the legal system. It was emphasized that the Convention should be accorded a status in Algerian domestic law superior to that of domestic legislation. Concern was expressed that the present state of emergency affected the exercise of fundamental rights.

71. With respect to article 2 of the Convention, members of the Committee wanted to know whether Algeria had adopted legislation expressly prohibiting racial discrimination and, if not, whether the Government was planning to do so. In that connection, members pointed out that the population in Algeria was sufficiently varied that special legislation on racial discrimination was necessary.

72. In regard to article 4, members of the Committee wished to know whether there had been acts of violence, or incitement to violence, directed against any particular racial or ethnic group; and whether racist organizations or propaganda had been declared illegal.

73. With regard to article 5 of the Convention, members wished to know whether there was discrimination in the field of employment. It was emphasized that statistical indicators on problems such as unemployment, delinquency and illiteracy were needed in order to determine the degree to which minorities had been socially integrated. Particular concern was expressed over the situation of the Berber minority and, in that connection, further information was requested on the extent to which they enjoyed the rights enumerated in article 5 of the Convention. Members expressed interest in the new national commission for human rights and wished to know how its members were appointed, how its independence was ensured and what role it played in addition to monitoring respect for human rights.

74. Concerning article 6 of the Convention, members of the Committee wished to know how many complaints of racial discrimination had been received by the competent authorities and how many sentences had been handed down for acts of racism. More complete information was required in general on the application of the Convention in the courts and the jurisprudence that had developed as a result, and on the independence of the judiciary. Members emphasized the importance of ensuring that lawyers and judges were well acquainted with the provisions of the Convention.

75. With respect to article 7, members of the Committee wished to have further information on the availability of instruction in their language for linguistic minorities at the primary and secondary school levels. In particular, members wished to know whether the Berber language was taught in such schools.

76. Members of the Committee commended Algeria as one of the States parties that had made the declaration under article 14 of the Convention recognizing the competence of the Committee to receive communications from individuals and groups of individuals alleging that their rights under the Convention had been violated. However, in view of the fact that the Committee had as yet received no communications concerning Algeria, members of the Committee wished to know what steps had been taken to make known that article of the Convention to the general public.

77. Replying to the questions raised by members of the Committee, the representative of the State party stated that the Algerian population was composed of Arabs, Berbers, Mozabites and Tuaregs. The Berbers lived essentially in three regions: Kabylie, a region near Algiers, where around 4 million Berbers lived; Aures, in the eastern part of the country, where there were 8 to 9 million; and in the south, where there were an additional million. In view of the fact that the total population of Algeria numbered 23 million, it was difficult to consider the Berbers as a minority. They participated fully and on a basis of equality in Algerian life and were in no sense marginalized. With respect to their language, there was no discrimination. The Berber language, amazigh, was widely spoken in the regions where the Berbers lived, particularly in Kabylie. At the present time, however, the written language was not sufficiently structured for it to be taught in schools. There was ongoing research, particularly at the University of Tizi-Ouzou, in that regard, which would ultimately make such instruction possible. The nomads of the south, who were now often sedentary, were totally integrated and were in no way repressed. Refugees in southern Algeria were neither Algerian nor were they persecuted.

78. With respect to freedom of association, the prohibition by law of regionalist political parties needed to be understood within the context of conditions in Algeria at the time of independence. It should be recalled that the end of colonial rule had been achieved with difficulty and there had been threats of seccession and dismemberment of the nation when independence was achieved. In order to counter that tendency, regionalism was encouraged in terms of culture, but was discouraged as a platform for politics. There were currently 67 political parties in Algeria and over 20,000 associations of various kinds, which had full freedom to pursue their activities.

79. Concerning the monitoring of human rights, the Minister of Human Rights had taken office in 1992 but was subsequently replaced by the National Commission on Human Rights (Observatoire national des droits de l'homme). The Commission was under the direct authority of the President and its administrative and financial independence were guaranteed. Non-governmental organizations were represented on the Commission, as were the Ministers of Justice and Education and representatives of the bar. Its task was to protect the fundamental human rights of citizens and provide information about human rights. It submitted an annual report on the human rights situation to the President of the National People's Assembly, which was made public two months afterwards.

80. With respect to education, the representative stated that it had not yet been possible to provide school courses which familiarized students with the provisions of the Convention. At present, the State was more immediately concerned with the problem of simply providing education. The representative expressed surprise at the mention of discrimination allegedly encountered by five black foreign students at the University of Oran. That university, like others in Algeria, had trained many black African students, including diplomats, from other countries in the region. With regard to black Algerians, their numbers were limited and they encountered no racial discrimination, including at the university.

81. Many young Algerians living in France had acquired French nationality in addition to Algerian nationality. An intergovernmental accord permitted them to choose in which country they preferred to perform their military service. With regard to the request that the next report of Algeria include statistical indicators and other detailed information on the situation of minorities, the representative assured the Committee that he would forward that request to his Government.

Concluding observations

82. The Committee noted with interest the legislative and institutional changes which had occurred in Algeria in recent years which created the framework necessary for the respect of human rights in general and for preventing and combating racial discrimination.

83. The Committee expressed its appreciation of the spirit of openness and cooperation which characterized the report, as well as the dialogue with the representative of the Government, while expressing its concern at the difficulties of the current situation in Algeria.

84. Taking into account the fact that the report was oriented especially towards legislative texts, the Committee considered that the next report should contain more demographic and statistical information on social indicators reflecting, in particular, the situation of ethnic and racial groups, in particular Berbers and blacks, as well as on judicial or administrative decisions taken to give effect to the Convention. It was also considered

necessary to clarify the effect of emergency measures taken by the Government with regard to the application of the Convention.

85. The Committee considered, in particular, that the next report should clarify the place of the Berber population in Algerian society with respect to identity, language, participation in public life and the social benefits provided for in article 5 of the Convention.

Qatar

86. The Committee considered the eighth periodic report of Qatar (CERD/C/207/Add.1) at its 964th and 983rd meetings, held on 5 and 18 March 1993 (see CERD/C/SR.964 and 983).

87. The report was introduced by the representative of the State party, who underlined that article 9 of the provisional Constitution of Qatar established the equality of all individuals and prohibited the promulgation of laws permitting discrimination on the basis of origin, sex or religion. In addition, article 5 of the provisional Constitution declared the adherence of Qatar to the principles contained in the Charter of the United Nations, which included condemnation of racial discrimination. Discrimination was also prohibited under Islamic law (Shariah), which was the principal source for the legislation of Qatar. Both the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of Apartheid formed part of the domestic law of Qatar and could be invoked before the courts. Courts in Qatar could award compensation to victims of discrimination by invoking article 4 of the Civil Code. However, since acts of racial discrimination were unknown in Qatar, there had not been a need to adopt specific legislation in that regard.

88. While welcoming the assurances given by the representative that the Convention had been incorporated in domestic law, members of the Committee pointed out that the Convention obligated States parties to undertake legislative, judicial, administrative and other measures to give effect to its provisions. Additionally, legislation expressly prohibiting racial discrimination and racist propaganda would have a useful preventive effect.

89. Members of the Committee requested further information on the demographic composition of the population and, in particular, statistical indicators on the health, life expectancy, and access to housing and education of foreign workers.

90. With respect to article 2 of the Convention, members of the Committee wished to know whether article 9 of the Constitution, which guaranteed the equality of all individuals in regard to their rights and obligations, also applied to non-citizens; whether non-Arabs were able to acquire Qatar nationality; whether foreign workers were discriminated against; whether the Government intended to adopt legislation prohibiting discrimination against foreign workers; and whether integrationist, multiracial organizations would not be of benefit in Qatar.

91. In regard to article 5 of the Convention, members asked whether free choice of employment was guaranteed to foreigners; whether foreign workers had access to all professions and trades; whether the Government envisaged measures to eliminate differences between citizens and foreign workers concerning access to all trades; whether non-citizens were eligible to receive social security benefits; and whether freedom to leave the country and return was guaranteed to non-citizens. Noting that the legislation restricting non-Arab lawyers from pleading a case before the courts was discriminatory, members asked for further information on the relevant regulations. With respect to freedom of religion,

members asked what facilities were available to non-Muslims for the practice of their religion.

92. With respect to article 6 of the Convention, members wished to have further information on specific legislation providing for compensation to victims of discrimination, and on the procedures used to decide whether compensation was to be awarded and in what amount, and wished to know what amounts had been awarded in the past as compensation. They also asked what were the respective competences of civil and religious courts in cases concerning racial discrimination; whether the religious courts based their decisions on the Koran, the Sunna or on jurisprudence; and what guidelines existed governing access of victims of discrimination to the civil and religious courts. Members also requested further information relating to the role of the Labour Court in protecting persons against discrimination.

93. Responding to the questions and comments of the members of the Committee, the representative of the State party said that Palestinians had been residing in Qatar for over 40 years and that a number of them had acquired citizenship. During the Gulf war, no Palestinians had been expelled from the country. The Palestinian community enjoyed all rights guaranteed under the law.

94. Foreign workers signed contracts with their employers for one or two years' duration. Medical care was provided free of charge to foreigners and access to medical care was guaranteed to all. Additionally, the right to education was guaranteed to all under the law. The Asiatic and European communities in Qatar had begun to create their own schools under the control of the Ministry of Education and instruction was available in various languages. Freedom of religion was also guaranteed. Anyone could practise the religion of his or her choice, although there were no Christian churches or Buddhist temples in Qatar because those religions were celebrated in the homes of their adherents.

95. The representative stated that the Government envisaged some revision of its laws so that they might conform to modern legislation. Those revisions if adopted, would accompany the next report Qatar would submit to the Committee. Other questions raised by members of the Committee would also be answered in that report.

Concluding observations

96. The Committee welcomed the Government's willingness in principle to introduce new legislation to bring its existing laws into conformity with the Convention. It repeated its offer of assistance from the advisory services programme of the Centre for Human Rights.

97. The Committee drew the attention of the Government to General Recommendations I and II and reiterated its request for further demographic data in accordance with General Recommendation IV.

98. While appreciating that there might be little evidence of racial discrimination in Qatar, the Committee emphasized the preventive value of legislative measures.

99. The Committee noted the view of the Government that the Shariah courts and the civil courts together offered sufficient remedies for any charges of racial discrimination that might be brought. The Committee was concerned about the criteria by which a Shariah court would determine an appropriate punishment and queried the necessity of separate proceedings in the civil court for the victim to obtain compensation in accordance with article 6 of the Convention.

Sudan

100. The Committee considered the eighth periodic report of the Sudan (CERD/C/222/Add.1) at its 968th, 970th, 971st and 983rd meetings, held on 9, 10 and 18 March 1993 (see CERD/C/SR.968, 970, 971 and 983).

101. The report was introduced by the representative of the State party, who said that the Government of the Sudan attached considerable importance to the work of the Committee, the ultimate objective of which was the welfare of the Sudanese population. The previous Government, however, had not fulfilled its obligations to report under the various human rights treaties to which it was a party. A series of reports had since been prepared as quickly as possible in order to re-establish cooperation with the treaty bodies concerned.

102. Members of the Committee welcomed the willingness demonstrated by the State party to engage in self-criticism and undertake a dialogue with the Committee. Noting, however, that the Sudan had a multiracial and multicultural society, members of the Committee regretted that the report did not contain information on the demographic composition of the Sudan as requested in General Recommendation IV of the Committee, nor did the report mention the most important subgroups of the southern Nile. It would be appreciated if the demographic composition were provided in the next report in tabular form. Members also requested information on the number of refugees and foreign students in the Sudan. In view of the campaign in the 1980s to eliminate certain tribal languages and establish a monocultural Islamic State, members asked how many languages were recognized by the Government and whether English was the principal language of the south.

103. It was noted that the Convention was no longer respected constitutionally, judicially or administratively and that the General Assembly, in its resolution 47/142, had called upon the Government of the Sudan to comply with applicable human rights instruments and to ensure that all individuals in its territory, including members of all religious and ethnic groups, enjoyed the rights recognized in those instruments. There were various reports from United Nations bodies, international non-governmental organizations and the media of ill-treatment of the population by security forces, including arbitrary detentions, extrajudicial executions, disappearances and forced detentions, and ethnic cleansing campaigns in southern Sudan. Further information was requested on how the process of national integration mentioned in paragraph 29 of the report could be accelerated under conditions of armed conflict.

104. Members observed that, since the suspension of the 1989 transitional constitution, the National Salvation Revolutionary Command Council had been ruling by decree, assigning special powers to the President. Since the first decree had abolished existing legislative and political organs, members wished to know how Sudan could implement the requirements of the Convention without enacting special legislation. In that connection, further information was requested on how the legislative, executive and judicial functions were structured.

105. Members recalled that article 4 of the Convention obligated States to introduce legislation to prevent acts of racial discrimination, and wished to know how that obligation was met.

106. Since the conflict appeared to have an ethnic component and religious questions sometimes overlapped with ethnic questions, members expressed concern about possible ethnic discrimination in the exercise of the rights referred to in article 5.

107. They noted reports that hundreds of Nuba and Fur villages had been razed and their inhabitants driven from the land in a vast programme of ethnic cleansing. In that connection, it had been reported that tens of thousands of people were being moved each month from the Nuba mountains and that the women were being used for mixed marriages or sold into slavery in the north. It would thus appear that article 5, paragraphs (d) (i), (iv) and (v) of the Convention were not being respected.

108. Concerning article 5 (b) of the Convention, providing for non-discrimination in the exercise of the rights of security of person and State protection, members of the Committee noted reports alleging mass killings and extrajudicial executions of civilians in the Nuba mountains, where the Government's programme of military action appeared to amount to ethnic cleansing. There had been similar reports of human rights violations by the Sudanese People's Liberation Army. In that regard, members stressed the importance of the right to life and noted that the offenses to which the death penalty applied were not clearly defined in Sudanese legislation. It was hoped that the Government would investigate reports of violations of the human rights of ethnic groups and bring those responsible to justice.

109. In relation to the effective implementation of article 5 (c) of the Convention, providing for non-discrimination in the right to take part in the Government as well as in the conduct of public affairs, members requested further information on the National Dialogue Conference of 1989. In that connection, members wished to know how the Government intended to allow groups to coexist within the federal system established by Decree No. 4 in response to demands from the south. Attempts to Islamicize the country by introducing Shariah appeared to go back on earlier agreements. Members also wished to know how it could be asserted that almost all shades of political opinion were represented in the Assembly when political parties had been banned and the legislature dismantled.

110. With respect to article 5 (d) (iv) of the Convention, members drew attention to the reference in paragraph 50 of the report to a non-Muslim wishing to marry the daughter of a Muslim being required to convert to Islam. It was also noted with concern that the rights to non-discrimination in exercise of the freedoms of thought, conscience and religion, and opinion, provided for under article 5 (d) (vii) and (viii) of the Convention, might have been flouted and that the offence of apostasy carried the death penalty. The right to freedom of peaceful assembly and association had been denied since the declaration of the state of emergency. Similarly, trade unions had been banned and their leaders imprisoned, which would be contrary to article 5 (e) (ii) of the Convention if there was an ethnic bias. With respect to article 5 (e) (iii), members wished to know what the Government had done to rehabilitate the homeless, particularly homeless children.

111. Concerning the right to non-discrimination in education (article 5 (e) (v) of the Convention), members asked what the minimum and maximum ages for compulsory education were; whether the educational system was the same in the north as in the south; whether children in school could be taught in local languages; and what problems were created for children as a result of forced migration from the south to the north.

112. In regard to the comments of the representative of the International Labour Organisation on the implementation of the ILO Convention concerning the Abolition of Forced Labour (No. 105) by Sudan and taking into account the allegations of slavery made before the Working Group on Contemporary Forms of Slavery, members requested further information on action being taken by the

Government in that regard, in particular with respect to the problem of the illicit transfer of children.

113. With respect to article 6 of the Convention, members of the Committee wished to know how the Penal Code was applied in practice in cases of racial discrimination; whether it contained penalties for acts of racial discrimination; whether the Convention could be invoked in a court; how legal proceedings alleging racial discrimination could be brought; and what remedy was available to victims of racial discrimination. In regard to the independence of the judicial system, members of the Committee expressed concern over reports that judges not considered sympathetic to the regime had been replaced. With respect to the special criminal courts, members of the Committee wished to know under what circumstances those courts were established; what were the laws governing them; and whether they were empowered to apply special rules.

114. In relation to article 7 of the Convention, it was noted that the replies provided in the report were not in conformity with the provisions of the Convention and the Government was requested to provide a proper reply in its next report.

115. In his reply, the representative of the State party welcomed the questions and observations of the members of the Committee. They would help the Government, which was resolutely determined to give the highest importance to human rights and to improve its implementation of the Convention.

116. Responding to the questions, the representative stated that the National Dialogue Conference had formally recognized the legitimate rights of the population of the south. The Government had acknowledged that the south was economically backward in comparison with the north and an agency had been established to promote the development of the south. In the political sphere, the Government had set up a federal system of government under which resources and positions of responsibility were to be equally distributed. The Government had given considerable weight to the recommendations of the Conference, particularly those concerning linguistic and religious minorities. In that connection, the Government had decided that Shariah would not be applied in the south, where the inhabitants were of a different culture. Additionally, the Government was willing to accept some kind of power-sharing arrangement with the three rival factions representing the rebel movement in Sudan, possibly taking the form of a federal structure.

117. As far as relations between the executive, legislative and judicial branches were concerned, the judiciary was independent and still governed by a 1986 law. The legislative and executive powers had initially both been exercised by the Council of the Revolution. In order to terminate the monopoly of both branches of authority, it had been decided to entrust legislative authority to the Supreme Transition Council, composed of over 300 individuals representing the country's different provinces and population groups. In recently held local elections, 1,600 municipal councillors had been elected by some 5.3 million voters. Those developments testified to the Government's determination to proceed towards democracy.

118. In response to questions raised by members, the representative stated that, although flogging was indeed a form of punishment, it had not been instituted by the 1991 Muslim Personal Law but by the Penal Code promulgated by the British in 1898. It was considered to be one of the best forms of punishment, not from a religious perspective but from that of modern criminology. Apostasy was not itself punishable and any Muslim could convert to Christianity. What was punishable under the Penal Code was incitement to apostasy, which could constitute a threat to peace and public order.

119. With regard to the allegations of torture and arbitrary trials and arrests, reference was made to the conclusions of an independent expert appointed by the United Nations whom the representative of the State party, in his capacity as Secretary-General of the Sudanese Commission on Human Rights, had accompanied during his visit to Sudan. On that occasion, the expert had been able to ascertain that those allegations had never been reliably attested to. He had been able to meet with someone who, according to Amnesty International and Africa Watch, had allegedly been tortured and had died. Other persons who had allegedly been arbitrarily arrested or tried had either been acquitted or convicted of written charges of which they had been informed. Moreover, the expert had ascertained that conditions under which prisoners were incarcerated were normal.

120. In reply to another question, the representative said that racial and religious discrimination was an offence under Sudanese statutory and case law. Furthermore, well before independence the international instruments to which the Sudan had acceded had been part of domestic law, over which they took precedence. International standards condemning racial discrimination and torture were fully respected in the Sudan. Convictions for racial discrimination could be punished by imprisonment for up to two years, a fine or both.

121. With regard to the percentage of non-Arabs in the armed forces and the proportion of southern and northern Sudanese in them, the representative assured the Committee that there were far more non-Arabs than Arabs in the armed forces. Membership in the popular defence forces did not depend on religious considerations.

122. On the question of language, Arabic was undoubtedly the language of most Sudanese. However, it was the official language not for that reason, but because it was the language employed by all 500 tribes in the Sudan. English, which was the language of the elite, had preserved its important position within Sudanese society. Allegations of forced Arabization of the country were proved untrue by the fact that for the 1974 Interpretation of Laws and General Clauses the English version was the authentic version before Sudanese courts.

123. There had been a question about the Government's alleged refusal to allow international organizations to visit the Nuba mountains in the province of Kordofan. In fact, a representative of the United Nations High Commissioner for Refugees had visited that area. The Government had not yet set up a commission to investigate alleged human rights violations in the area, partly because it was waiting to see whether the Commission on Human Rights would appoint a Special Rapporteur on the Sudan, with whom the Government wished to cooperate fully. In that connection, the representative cordially invited any members of the Committee who were interested to visit the Sudan to observe the situation on the spot.

Concluding observations

124. The Committee expressed appreciation for the willingness of the Government of the Sudan to continue its dialogue with the Committee. The Committee expressed its deep concern at the serious human rights violations in the Sudan. It noted the statement of the representative that violations of human rights had been occurring and, in view of the Committee's anxieties, attached particular significance to the statement that the Government was taking every step to prevent further occurrences.

125. The Committee regretted the lack of information on the ethnic dimension to the current conflict in the country and the insufficiency of demographic data

requested in the Committee's reporting guidelines and General Recommendation IV. The Committee requested the Government to ensure the harmonization of the national legislation, regulations and practices of the Sudan with the provisions of the Convention, and their effective implementation.

126. The Committee took note of the information supplied concerning Sudanese legislation, but observed that there often appeared to be a disjunction between those provisions and the manner of their implementation. It expressed its concern about the situation in the Nuba mountains and that of the Fur and wished to learn about the findings of the Commission of Inquiry appointed on 25 November 1992.

127. In accordance with article 9, paragraph 1, of the Convention, the Committee requested further information as soon as possible but not later than 31 January 1994 from the Government of the Sudan concerning the implementation of the Convention. The Committee drew the attention of the State party to the availability of technical assistance from the advisory services programme of the Centre for Human Rights with regard to the preparation of its next report.

Ecuador

128. The Committee considered the eleventh and twelfth periodic reports of Ecuador (CERD/C/197/Add.9 and CERD/C/226/Add.1) at its 971st, 972nd and 983rd meetings, held on 10, 11 and 18 March 1993 (see CERD/C/SR.971, 972 and 983).

129. Introducing the report, the representative of the State party said that there was no systematic racial discrimination in Ecuador and that the inequalities that did exist were the result of the social, economic and structural problems encountered by all developing countries. The Government was constantly trying to improve its legislation to promote equality and would receive the advice and comments of the Committee in the best possible spirit.

130. The representative pointed out that the 1989-1992 National Development Plan referred to in the report was a particularly important instrument, since more emphasis had been placed on planning than in the past. The Plan came under the authority of the Vice-President and was binding on the public sector. One of the main obstacles to its implementation was the influence of external factors on the economy. In that connection, approximately 30 per cent of the State budget went to pay off Ecuador's foreign debts.

131. Members of the Committee expressed their appreciation for the high quality of the reports submitted by Ecuador. It was noted that the reports emphasized that Ecuador was a multiethnic and multicultural society and that the State was endeavouring, through the National Development Plan, to promote the groups and cultures which were contributing to the creation of a national identity. However, it was pointed out that the reports did not contain demographic information on the ethnic composition of Ecuadorian society. In particular, members of the Committee requested specific data on the birth, death and life expectancy rates of indigenous populations as compared with the population as a whole. Members also pointed out that the reports did not contain enough concrete examples of how victims of racial discrimination were protected by the legal system.

132. It was noted that the report placed considerable emphasis on the exploitation of natural resources and environmental protection. In that regard, more detailed information was needed on the effect of such programmes on the cultural and social life of indigenous populations, especially those living in the Amazon region. Such programmes did not appear to be of direct benefit to

the populations whose lands were being used and no mention of their views on the subject had been included in the report.

133. In relation to article 2 of the Convention, members of the Committee wished to know which groups were considered as "indigenous nationalities"; how an individual was identified as belonging to a given nationality or minority; what was meant by "popular cultural characteristics" as referred to in paragraph 13 of the eleventh periodic report; and whether there were any distinctions among aliens as to the extent of their rights that were guaranteed.

134. With respect to article 4 of the Convention, members wished to know what the actual practice of the courts was with regard to penalties for participation in racist organizations or activities; whether there had been any rulings in that regard under the relevant law; and whether the Government envisaged any revisions to the relevant sections of the Penal Code.

135. Concerning article 5 of the Convention, members of the Committee wished to know what the exact criteria were that were used by the authorities in deciding when instruction would be provided in indigenous languages; to what extent children who received instruction in an indigenous language also received training in Spanish; why the right to vote was denied to illiterates, who tended to come from indigenous communities; how funding for the rural educational system compared with funds allocated for white or white-mestizo students; whether the budget for the bilingual education system for indigenous peoples had been significantly reduced in 1991; and what measures were being taken in response to an increase in health problems among indigenous communities, particularly those linked to environmental degradation resulting from oil exploration.

136. Members of the Committee also wished to know what percentage of members of Parliament were members of indigenous communities; how indigenous people were represented in local government; to what extent indigenous communities were involved in decision-making on questions of direct concern to them, such as land allocation and delimitation; whether title to indigenous lands was held by individuals, families or communities; how "ethnobiological reserves" were designated; how respect for the cultural values of native populations was ensured in practice regarding development projects, including exploration for hydrocarbons; what role was played by indigenous organizations in monitoring the implementation of laws governing the exploration and exploitation of natural resources in indigenous areas; whether indigenous communities and organizations were consulted in decisions concerning the exploitation of resources; whether compensation was made to indigenous persons whose livelihood was jeopardized by new industries; to what extent indigenous communities profited from the exploitation of hydrocarbons in the Amazon region; whether the Government had investigated the illegal acts of paramilitary groups in indigenous communities and what measures had been taken to better protect those communities from further acts of intimidation and coercion; who had set up the various Quechua organizations referred to in paragraph 21 of the eleventh report; whether the large number of imprisoned indigenous leaders had been released; whether indigenous groups were precluded from forming their own political parties; the extent to which article 48 of the Constitution applied to large landowners; whether indigenous peoples were provided with tools, loans, technical assistance or any other infrastructure when they were allocated land; and what protection was afforded indigenous communities in order to discourage attacks by larger landowners.

137. With respect to article 6 of the Convention, members of the Committee wished to have more information on the Commission on Human Rights, in particular how it was established and what its current activities were; on statistical data

relating to remedies available for acts of racism; on sentences handed down in connection with racist acts and on whether complaints about such acts had been brought before the Inter-American Commission on Human Rights; and whether violation of the environmental regulations issued by the National Environmental Department gave rise to any sort of civil liability or criminal responsibility.

138. With reference to the indigenous uprisings in 1990 and the dialogue subsequently established with the leaders of the indigenous communities, members asked what demands the indigenous groups had made, particularly in regard to land, and what was the outcome of that dialogue. Members of the Committee also asked the representative to comment on allegations that paramilitary groups in the province of Imambura were operating against indigenous communities with the acquiescence of the Government; and on allegations that an indigenous community leader had suffered ill-treatment in prison.

139. Replying to the questions and comments of the members of the Committee, the representative of the State party stated that he had transmitted to his Government the requests for further information made by members of the Committee. Precise responses to those questions would be communicated to the Committee in the next report Ecuador would submit.

140. Concerning the general framework for the protection of human rights, the representative explained that constitutional reform was currently being considered, including the possibility of creating the post of Ombudsman under the judicial branch. At present, the Procurer General of the Justice Ministry was responsible for reviewing and investigating human rights complaints.

141. With respect to representation of indigenous communities in government, the representative stated that the present Constitution did not provide for an indigenous representative in Congress. All representatives were elected by the people without regard to colour or race. Since the indigenous uprisings in 1990, representatives of the Ecuadorian Government had been participating in ongoing dialogue with leaders of the various indigenous communities. A list of 16 points had been put forward by those communities, which included demands for better access to the means to exploit their lands.

142. In regard to the exploitation of resources on indigenous lands, the representative stated that the President of Ecuador had personally studied the problem of petroleum exploitation in the Amazon with a view to ensuring the protection of the environment and the interests of the indigenous communities who lived there. According to Ecuadorian law, rights to resources below the surface belonged to the Government but exploration was carried out with due regard to providing appropriate compensation to the indigenous communities. That had been the case particularly with the Huaoranis, a stone-age tribe numbering only about 2,715 individuals which was not at all integrated into Western civilization.

Concluding observations

143. The Committee commended the regularity with which the Government of Ecuador had reported on the implementation of the Convention in that country.

144. The Committee noted that one of the objectives of the National Development Plan was to ensure the recognition of Ecuador's multiethnic and multicultural character. The Committee expected that indigenous communities would benefit from the implementation of the Plan as far as their economic, social and cultural status was concerned.

145. The Committee encouraged the Government, in its next report, to provide detailed information on the implementation of the National Development Plan so that the Committee could fully assess the conditions in which the indigenous communities lived. The Committee expressed particular concern that economic exploitation of the Amazon region should be undertaken only after full consideration of the interests of the indigenous communities in the preservation of their identity. The Committee trusted that the Government would take effective steps to achieve that.

146. The Government of Ecuador was called upon to report on the functioning of the judiciary in connection with the Convention and especially upon the status and functions of the ad hoc Commission on Human Rights established by the Ecuadorian National Congress.

Central African Republic

147. At its 972nd and 983rd meetings, held on 11 and 18 March 1993 (see CERD/C/SR.972 and 983), the Committee reviewed the implementation of the Convention by the Central African Republic, based on its previous report (CERD/C/117/Add.5) and its consideration by the Committee (see CERD/C/SR.751-752). The Committee noted that no report had been received since 1984.

148. Members of the Committee noted that approximately 80 ethnic groups made up the population of the Central African Republic, but it primarily comprised the Baya, Banda, Babinga, Baka and Zanda groups. However, members of the Yakoma group dominated the administration even though they accounted for less than 5 per cent of the population. In particular, the forest-dwelling Bayaka, or Pygmies, were often victims of discrimination and exploitation. The Government had done little to correct that situation.

149. The revised Constitution should ensure respect for human rights and the principle of equality before the law. More information was needed as to how legislation implemented the provisions of the Convention. Additional information was also required as to the social and economic situation of the various ethnic groups. Members of the Committee wished to know whether there were any integrationist or multiracial organizations; whether there were any human rights organizations actively combating racism and racial discrimination; what measures had been taken to criminalize racial discrimination and provide appropriate punishment under the law; what measures had been taken to protect refugees in the country; and what mechanisms existed to ensure the right to recourse under article 6 of the Convention. Members also wished to have information on recent developments concerning the evolution toward pluralist democracy, including the scheduling of elections and the modification of the Constitution.

Concluding observations

150. In concluding the review, the Committee expressed its regret that the Central African Republic had not submitted a report since 1984 and had not responded to its invitation to participate in the meeting and to furnish the relevant information. The Committee wished to draw the attention of the State party to the possibility of requesting technical assistance from the United Nations Centre for Human Rights in the preparation of its report.

151. The Committee hoped to receive a new report shortly together with a core document in accordance with the guidelines contained in document HRI/1991/1. That was particularly important in view of the changes which had taken place in the Central African Republic since 1984.

Jamaica

152. At its 979th and 983rd meetings, held on 16 and 18 March 1993 (CERD/C/SR.979 and 983), the Committee reviewed the implementation of the Convention by Jamaica based on its fifth, sixth and seventh periodic reports submitted in one document (CERD/C/117/Add.4) and their consideration by the Committee (CERD/C/SR.741-742).

153. In his introductory statement, the representative of the State party recalled that in 1985 the representative of Jamaica had declared that the Government intended to adopt legislation to implement article 4 of the Convention, thus allowing the Government to withdraw its reservation to that article. Since then, the Government had decided not to adopt specific legislation, but instead to consider amending section 24 of the Constitution so as to take the Convention into account. The Constitutional Review Committee was still considering that amendment and, accordingly, the reservation to article 4 of the Convention was still in force.

154. Members of the Committee welcomed the presence of the State party's representative, but noted that he had little to report. They recalled that during consideration of previous reports, which had been prepared with the assistance of the United Nations Institute for Training and Research, members of the Committee had asked for more detailed information with respect to the implementation of article 5 of the Convention and had deplored the absence of information about the poorest population groups in Jamaica. In connection with the latter, members indicated that the Committee needed socio-economic indicators to tell it whether ethnic minority groups were disproportionally represented among the unemployed, criminals, prison inmates, alcoholics, drug addicts and prostitutes.

155. With respect to article 4 of the Convention, members of the Committee emphasized that the adoption of measures to implement that article was particularly important.

156. With regard to article 5 of the Convention, members of the Committee requested that information be provided with respect to measures taken to implement its provisions dealing with economic and social rights. They recalled that, in the 1960s, banks and other employers had preferred light-skinned employees for jobs involving contacts with the public, thus discriminating against people with darker skin, and asked whether that was still the case.

157. The representative of Jamaica, replying to the questions asked and comments made by the members of the Committee, said that Jamaica had chosen not to submit its outstanding periodic reports because it had not yet been able to adopt the legislation required to implement article 4.

158. With regard to article 5 of the Convention, the representative said that, in the past, light-skinned people had, indeed, been preferred for certain jobs, but that was no longer the case; people of all colours were now treated on an equal basis.

Concluding observations

159. In concluding the review, the Committee expressed its regret that Jamaica had not submitted a report since 1985. It expressed its appreciation for the attendance of the representative of the State party and the explanation offered for the lapse in reporting.

160. The Committee expressed the hope that it would receive the next report in due time, together with a core document, and that the report would be in accordance with the reporting guidelines. In particular, it hoped that, by that time, Jamaica would be in a position to withdraw its reservation concerning article 4 of the Convention.

161. As the demographic information supplied with the previous report was in some respects problematic, Jamaica was requested to clarify the demographic aspects in its next report.

Chad

162. At its 980th and 983rd meetings, held on 17 and 18 March 1993 (see CERD/C/SR.980 and 983), the Committee reviewed the implementation of the Convention by Chad based on its previous report (CERD/C/114/Add.2) and its consideration by the Committee (see CERD/C/SR.838). The Committee noted that no report had been received since 1986.

163. The representative of the State party explained that during the previous dictatorial regime of President Hissène Habré, there had been many discriminatory policies in favour of the Goranes, the tribe of the President. During the years of dictatorship, 1982 to 1990, more than 40,000 persons had been killed, more than 80,000 children orphaned, more than 30,000 women widowed and more than 200,000 persons deprived of material and moral support. The new democratic Government had initiated a number of steps in an effort to establish the rule of law and guarantee respect for human rights. Among the measures adopted were the establishment, by Decree No. 14/P-CE/CJ/90, of a commission to investigate crimes committed under the dictatorship. The post of Minister for Humanitarian Affairs had recently been established with a view to creating the conditions necessary for the exercise of human rights, coordinating humanitarian undertakings, monitoring respect for human rights and educating the general public in that regard, and providing a mechanism for reparations to victims of human rights abuses. Additionally, the newly created National Human Rights Commission investigated reports of human rights abuses, including torture, disappearances and arbitrary detention, and promoted human rights education. Fundamental human rights were now guaranteed in the new Charter of the Republic, which had been adopted in March 1991 under Decree No. 001/PR/91. Lastly, the Government had taken the necessary steps to ratify the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

164. The representative of the State party assured the Committee that there were no political prisoners in Chad and no journalists in detention. There had not been a state of emergency since 1 December 1992. The present Government was doing everything possible to restore peace in the country following 30 years of civil war. Although Chad had not been represented during the deliberations of the Committee since 1986, it would be in the future.

165. Members of the Committee welcomed the presence of the representative of Chad and expressed their satisfaction with the re-establishment of a dialogue with that State party. The representative had provided the Committee with much useful information. However, there were still many areas which required further clarification. In particular, members of the Committee wished to have more information regarding the size of the various ethnic groups in Chad and the extent to which their economic, social and cultural rights were respected. In that connection, the results of the 1993 census should be communicated to the Committee by the Government. Members of the Committee stated that steps needed to be taken to assist the various ethnic groups with regard to culture,

education and their social welfare. Members of the Committee expressed their concern over the reported persecution of the Hajerai ethnic group, which had been closely associated with the previous regime. Information was also needed on whether vulnerable ethnic groups were adequately represented in the new National Commission on Human Rights.

166. Members of the Committee invited the State party to follow up the dialogue by submitting a new report which would conform to the Committee's revised general guidelines for the submission of reports.

167. In his reply, the representative of the State party stated that Chad counted among its population no less than 110 tribes. He assured members of the Committee that racial discrimination was not a tradition in Chad. During the previous regime, an attempt had been made to create divisions in the country between north and south, between Christians and Muslims and between French speakers and Arab speakers. All of those discriminatory practices had since been terminated. At present, there were 33 political parties in Chad. In order to prevent the rise of tribalism, each party was required by law to have membership in at least 10 of the country's 14 regions. The Hajerai ethnic group had been reintegrated; those persons who had been arrested in the clashes of October 1991 had been released.

168. Further responses to the questions posed by members of the Committee would be contained in the next report submitted by Chad.

Provisional concluding observation 4/

169. The Committee welcomed the presence of the Minister of Humanitarian Affairs of Chad, who had come to present his Government's point of view, thus demonstrating Chad's willingness to reopen the dialogue with the Committee after many years of silence.

170. The Committee took note with satisfaction of the commitment made by the representative of Chad to submit the written periodic report in the prescribed manner at the next session and reiterated its offer of the advisory services of the Centre for Human Rights to assist Chad in preparing the report, if it so wished.

171. The Committee emphasized the particular importance it attached, during the country's present transition period, to the measures taken by the Government of Chad to consolidate the rule of law and to prevent the return of any dictatorial regime or of any policies of discrimination or repression against particular ethnic groups.

Mozambique

172. At its 980th and 983rd meetings, held on 17 and 18 March 1993 (see CERD/C/SR.980 and 983), the Committee reviewed the implementation of the Convention by Mozambique based on its previous report (CERD/C/111/Add.1) and its consideration by the Committee (see CERD/C/SR.681). The Committee noted that no report had been received since 1984.

173. Members of the Committee noted that the State party had submitted only an initial report since it acceded to the Convention in 1983, which the Committee had considered to be excessively brief. The Committee had, however, acknowledged that Mozambique was among the front-line States which were subject to the destabilizing activities of the Government of South Africa. The fact that no report had been received was no doubt due to the war which had ravaged

the country and resulted in a massive flow of Mozambican refugees into neighbouring countries.

174. In recent years there had been a number of important developments. A new Constitution, which had been promulgated on 30 November 1990, represented significant progress towards the guarantee of fundamental rights and a pluralist political system. Under the provisions of the Constitution, torture was expressly prohibited and international human rights organizations were accorded permission to visit prison facilities. Discrimination was forbidden under the Constitution, although additional information was needed concerning the definition of racial discrimination in current legislation. That definition should be compatible with the definition of racial discrimination contained in article 1 of the Convention and should reflect the requirements under articles 2, 4, 5, 6 and 7.

175. Members noted that, while racial discrimination did not appear to be practised systematically in Mozambique, the various ethnic groups in the country were not proportionally represented in the administration. In particular, there was a disproportionate representation in Government of members of the Shangana group, as well as whites, Asians and persons of mixed race.

Concluding observations

176. In concluding the review, the Committee expressed regret that Mozambique had not submitted a report since its initial report in 1984 and had not been able to respond to the invitation to participate in the meeting and to furnish the relevant information with regard to the application of the Convention. The Committee drew the attention of the State party to the possibility of requesting technical assistance from the Centre for Human Rights in the preparation of its report. The Committee hoped to receive a new report shortly.

177. At the same time, the Committee expressed its deep concern at the serious human rights violations in Mozambique and its awareness of the current difficulties there, which it hoped might soon be overcome.

Poland

178. The tenth, eleventh and twelfth periodic reports of Poland, submitted in one document (CERD/C/226/Add.2), were considered by the Committee at its 981st, 982nd and 983rd meetings, held on 17 and 18 March 1993 (CERD/C/SR.981-983).

179. The report was introduced by the representative of the reporting State, who explained that since the report had been drafted in 1992 there had been no notable developments concerning the situation of racial discrimination in Poland. He emphasized that there were no laws in Poland regarding the legal status of persons which made any distinction on the grounds of race or ethnic origin. The Constitutional Court had ruled on several occasions that the principle of equality before the law constituted the very foundation of the State and was to be strictly respected by all State organs. Poland had a comprehensive system of institutional guarantees for the rule of law based on the independence of the judiciary. Justice was administered not only through the courts, but also through the Commissioner for Human Rights/Ombudsman, who was empowered to act not only in cases involving breaches of the law, but also in cases of violations of accepted principles of community life. Cases of discrimination in Poland were few and were usually related to nationality.

180. With respect to the application of the international human rights treaties ratified by Poland, the representative informed the Committee that, in accordance with the decision of the Supreme Court in June 1992, such treaties

would henceforth become directly applicable and binding provided that they were self-executing. Unfortunately, the International Convention on the Elimination of All Forms of Racial Discrimination, which had been ratified before the constitutional amendment of April 1989, could not yet be considered as directly incorporated in Polish law. However, that situation was expected to change with the adoption of the new Constitution, which would put all human rights treaties ratified by Poland on an equal footing and make them part of the internal legal order irrespective of the date of ratification.

181. Members of the Committee welcomed the recent trend towards greater democracy in Poland. The ratification by Poland of the European Convention on the Protection of Human Rights and Fundamental Freedoms and its acceptance of the jurisdiction of the European Court on Human Rights, as well as of the procedure whereby individual petitions could be made to the European Commission on Human Rights, were evidence that it had consolidated its status as a democratic State based on the rule of law.

182. Members of the Committee noted that the report under consideration was somewhat brief and not fully in accordance with the Committee's revised general guidelines. Those guidelines should be taken into account when the next periodic report was prepared. Members wished to have more detailed information on the legal situation in Poland with regard to the implementation of the Convention. They observed that the Government should consider submitting a "core document" containing general information on the situation in the country which could be used by all human rights treaty bodies and which would make the task of reporting easier. Members also wished to have more precise demographic data showing the ethnic and racial situation in Poland. In particular, further information was requested on attitudes and behaviour towards Jews and Gypsies in Poland and on the problem of racial discrimination against immigrants and refugees.

183. With respect to article 2 of the Convention, members of the Committee indicated that the Polish authorities should take into account the provisions of article 2.1 of the Convention in connection with any policy which the National and Ethnic Minorities Commission might adopt. The authorities should formulate a more comprehensive policy towards minorities, put it into written form and bring it to the attention of the persons it was intended to protect and those who were required to implement it. Furthermore, a governmental body should be specifically designated as responsible for its coordination. The Committee would welcome further information on all those points in the next report of Poland. Members requested more information with respect to the implementation of article 2.1 (d).

184. With respect to article 4 of the Convention, members of the Committee stated that the report should have been more informative about the Polish National Party, which sought to promote negative attitudes towards Jews. They asked whether the Polish Constitution allowed the establishment of political parties and organizations on racial, ethnic or religious grounds.

185. With regard to article 5 of the Convention, members of the Committee noted that the information provided in connection with that article related only to legislation and not to the actual situation in the country. Members wished to have more information on the groups organized by the Socio-Cultural Society, which had secured for the German minority a strong representation in local government; on limitations on the right to own property; on the cultural education provided and training in the languages of minority groups; on the national education system and the extent to which it reflected the interests of the different ethnic groups.

186. Referring to article 6 of the Convention, members of the Committee indicated that insufficient detail had been given with respect to the implementation of that article. Further information was requested on the functions of the Ombudsman and of the National and Ethnic Minority Commission. More information was also requested with respect to recent changes in the organization of the judiciary.

187. Concerning article 14 of the Convention, members of the Committee asked whether Poland planned to make a declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals claiming to be victims of a violation of any right set forth in the Convention.

188. Replying to the questions, the representative of the State party stated that, in regard to the demographic composition of Poland, the Minister of Culture had estimated that the population included 300,000 Ukrainians, between 200,000 and 250,000 Belarusians, between 200,000 and 500,000 Germans, between 20,000 and 25,000 Lithuanians, 15,000 Jews, 15,000 Greeks and Macedonians, 3,000 Russians, Tartars, Karaites, Ormians and Czechs, and between 10,000 and 15,000 Gypsies. Ethnic minorities thus totalled some 1.1 million out of a total population of 40 million citizens. Apart from some isolated instances, there was no negative attitude or discrimination towards foreigners in the country.

189. With regard to article 1 of the Convention, the representative stated that although that provision had not been literally incorporated in domestic legislation, there was no doubt that it had influenced the understanding in Poland of what constituted racial discrimination.

190. Concerning article 2 of the Convention, the representative gave further information on the status of the Convention in the Polish legal order and indicated that the Convention played an important role in Polish jurisprudence. There were, for example, frequent references to the International Covenants, which similarly had not yet been transformed into domestic law, in the jurisprudence of the Constitutional Court, the Administrative Court and in the activities of the Ombudsman.

191. With regard to article 4 of the Convention, the representative explained that, following decades of communist rule, Poland was still in the initial stage of establishing a multiparty system. The general approach adopted was to limit State interference in that process as much as possible. At present, there were more than 180 political parties active in Poland, most of which were very small with no political influence. That was the case for the National Party under the leadership of Mr. Tejkowski. Because of his statements and other activities, criminal proceedings against Mr. Tejkowski had been initiated, but they had not yet been completed. In that connection, the statute on political parties of 1990 made it possible for the Constitutional Court to declare a political party inconsistent with the Constitution. Legislation on associations provided similar restrictions in regard to organizations other than political parties.

192. Concerning article 5 of the Convention and the participation of minorities in representative organs, the local administration in Poland was based on the principle of self-government. Representatives of minorities were members of local parliaments, as well as of the national Parliament. In order to facilitate the access of minorities to the legislature, the electoral law of 1991 had established lower criteria for the registration and election of candidates representing minorities. With regard to educational opportunities for minorities, there were no restrictions as to teaching in minority languages. Availability of such instruction depended on the need and on material resources. Since 1 September 1992, German had been taught as a basic language in 7 schools

and as an additional language in 170 schools in areas inhabited by the German minority. Ukrainian was taught in 3 primary schools and in 3 general secondary schools, while Belarusian was taught in 48 primary schools and in 2 general secondary schools.

193. With respect to article 6 of the Convention, the representative stated that the Sejm Committee for National and Ethnic Minorities had been established immediately after the political changes of 1989. It was a standing parliamentary committee which dealt with all matters relevant to the protection of minorities. In particular, the Committee discussed the question of a draft statute on that question.

194. In regard to article 14 of the Convention, the representative stated that, in general, Poland recognized the right of individuals to avail themselves of international complaints procedures in instances where they felt that their rights had been violated. It was only for technical reasons that Poland had not yet made the declaration under article 14 recognizing the competence of the Committee in that regard.

195. In conclusion, the representative stated that the observations and recommendations made by the members of the Committee would be very useful to the Polish authorities.

Concluding observations

196. The Committee recommended that the Government of Poland, in drafting its next periodic report, should make use of the possibility created by the revised guidelines on reporting to submit a core document covering the general legal, political and economic situation in Poland. It expressed the hope that the next periodic report would provide all the information requested during the Committee's consideration of the tenth, eleventh and twelfth periodic reports.

197. The Committee reiterated its request for further demographic data in accordance with general recommendation IV and for full information on the situation of ethnic groups.

198. The Committee considered the form in which the Convention had been incorporated in Polish law and noted that a different system had been provided for under the new Constitution. It recommended to the Government that it should consider giving the Convention the same status in domestic law as other international human rights instruments.

Republic of Korea

199. The seventh periodic report of the Republic of Korea (CERD/C/221/Add.1) was considered by the Committee at its 987th meeting held on 3 August 1993 (CERD/C/SR.987).

200. The report was introduced by the representative of the reporting State, who briefly described the major developments that had occurred recently in his country. He drew particular attention to his Government's accession to the International Covenant on Civil and Political Rights and its Optional Protocol and to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. He also highlighted measures taken by his Government to implement various articles of the Convention, pointing, in that regard, to his Government's enhanced involvement in international efforts to dismantle apartheid in South Africa.

201. Members of the Committee thanked the Government of the Republic of Korea for the timely submission of its report, which demonstrated the Government's serious attitude towards its obligations under the Convention. While it was observed that the information contained in the report was useful and had answered questions raised by the Committee in its examination of previous reports, it was also noted that the report did not contain sufficient information on the practical implementation of the Convention and on the factors and difficulties impeding the implementation of the Convention. It was recommended that information on those and other matters, including texts of the legislative measures taken to give effect to the provisions of the Convention, should be included in the next periodic report.

202. Members of the Committee also requested information on the system of administration of justice, on the impartiality and independence of the judiciary and on the scope of implementation of the national security law, especially as they related to the practical implementation of the rights contained in the Convention.

203. Members of the Committee drew attention to the reports they had received of xenophobia and of discrimination allegedly practised against foreign residents, particularly those of Chinese descent, foreign workers and children of mixed parentage. Further information was requested concerning the situation of those groups and general social attitudes towards them. In addition, members of the Committee sought clarification on allegations of discrimination against persons from regions other than the south-east of the Republic of Korea.

204. Members of the Committee also requested clarification as to the status of the Convention in domestic law, especially in the event of conflict between the provisions of the Convention and the Constitution, as article 6.1 of the Constitution appeared to render the Convention equal in status but not superior to domestic law.

205. With regard to article 2 of the Convention, members of the Committee noted that article 11 of the Constitution, which provided for the prohibition of discrimination, contained no reference to the prohibition of racial discrimination and requested clarification in that regard.

206. Referring to the importance of establishing national human rights institutions to facilitate the implementation of the Convention, members of the Committee asked whether the State party had taken any steps in that regard.

207. Concerning article 3 of the Convention, members of the Committee asked for information on any recent changes regarding the implementation of its provisions.

208. With regard to article 4 of the Convention, members of the Committee emphasized the need to take positive measures to prevent xenophobia and racial discrimination, expressing concern at the omission of provisions against racial discrimination from the State party's penal law.

209. In connection with article 5 of the Convention, members of the Committee sought clarification on matters relating to: naturalization and the rights to inheritance of naturalized citizens; foreigners' eligibility to join or create trade unions and enjoy the benefit of their protection; the level of wages received by foreign workers; and foreign workers' enjoyment of the rights to medical and other social services.

210. In respect of article 6 of the Convention, members of the Committee requested clarification as to the reasons for the lack of complaints of racial

discrimination before the court or administrative authorities and as to the remedies available to victims of racial discrimination in the event of violations by government bodies and public agencies.

211. Concerning article 7 of the Convention, members of the Committee sought further information on the number, status and funding of schools for foreigners. They also wished to know more about the activities undertaken to promote human rights, understanding and tolerance in schools, in general, and the human rights training given to law enforcement officials, in particular.

212. Members of the Committee also requested further information on the reported intention of the State party to make the declaration provided for in article 14 of the Convention.

213. In reply to questions raised by the members of the Committee the representative of the State party provided information on the breakdown of the foreign population in the State party and the trends in the size of the foreign population over time, especially with regard to the Chinese. In addition, he denied that there was discrimination in the State party on the basis of regionalism.

214. With respect to concerns raised over the status of the Convention in domestic law, the representative stated that his Government had incorporated the Convention in the law of the Republic of Korea so that it was directly applicable and could be invoked before the courts.

215. With regard to the question raised as to the omission of the prohibition of racial discrimination in article 11 of the Constitution, the representative replied that article 37 of the Constitution covered that point as it provided that the freedoms and rights of citizens "shall not be neglected on the grounds that they are not enumerated in the Constitution".

216. In respect of article 3 of the Convention, the representative indicated that his Government had lifted economic sanctions against South Africa except the ban on arms, nuclear technology and oil.

217. Concerning article 4 of the Convention, the representative pointed out that should problems of racial discrimination arise, his Government would strengthen protective measures, as necessary.

218. In connection with article 5, the representative provided information on the requirements of naturalization and cases when such requirements could be waived or reduced. In addition, he informed the Committee that naturalized citizens benefited from the same rights and had the same obligations as other citizens. Non-nationals could own property subject to the existence of a policy of reciprocity in the State of which they were nationals. Equally, foreign workers had the same rights as workers who were nationals of the country, provided that they were legally registered for work, i.e. in accordance with immigration laws.

219. With regard to article 7 of the Convention, the representative indicated that many schools for foreign nationals covered both primary and secondary levels and that his Government did not provide funding for such schools. There was no discrimination against foreign schools in relation to diplomas, since all schools were evaluated in accordance with uniform standards. Schools played an important role in promoting human rights, and educating people about human rights and observed human rights week each December. In addition, the representative explained that his Government recognized the importance of

educating law enforcement officers in human rights standards and that a training programme for such officers was in operation.

220. In regard to the declaration under article 14 of the Convention, the representative indicated that his Government was still deliberating on that matter.

221. Finally, the representative said that he would transmit the Committee's comments to his Government, particularly those relating to article 4 of the Convention, national human rights institutions and the incorporation of the prohibition of racial discrimination in the Constitution. The new President of the Republic of Korea was committed to the promotion and protection of human rights and new goals were being set and new programmes developed to that end. The next report to be submitted under the Convention would reflect those developments.

Concluding observations

222. At its 1007th meeting, held on 17 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

223. The Committee noted the timely submission of the report of the Republic of Korea which was a reflection of the Government's seriousness in meeting its obligations under the Convention.

224. The Committee welcomed the information contained in the report and the additional information provided by the delegation in its oral presentation.

(b) Positive aspects

225. The Committee welcomed the measures taken by the State party to introduce policies and to promulgate legislation in conformity with its international human rights treaty obligations. The Committee appreciated, in particular, the efforts of the Republic of Korea to implement article 3 of the Convention and noted the intention of the Government actively to consider making the declaration under article 14 of the Convention.

226. The Committee also noted that the State party had not encountered any serious ethnic problems during the reporting period.

(c) Principal subjects of concern

227. The Committee noted with concern that article 11 of the Constitution and other legal provisions prohibiting discrimination contained no reference to race and other factors as grounds of discrimination.

228. The Committee was equally concerned that the necessary legislative and other measures to prevent and prohibit racial discrimination had not been taken by the State party. It noted, in particular, that domestic legislation lacked provisions to implement article 4 of the Convention and did not provide for the criminal penalization of racially discriminatory acts.

229. The Committee expressed its concern at the reported discrimination suffered by Amerasian children, children of foreign workers and their spouses and persons living in regions other than the south-east of the Republic of Korea.

(d) Suggestions and recommendations

230. The Committee recommended that the State party's next report should include sufficient information on the implementation of the Convention in practice, including factors and difficulties encountered in that regard. Equally, the report should contain the text of legislative provisions such as relevant parts of the Constitution and Penal Code designed to prevent and address problems of racial discrimination.

231. The Committee recommended that the State party should study carefully various General Recommendations adopted by the Committee on matters relating to the implementation of the Convention. The contents of those Recommendations should not only guide the State party in the preparation of its next report but also assist it in determining the action to be taken to ensure more effective compliance with the provisions of the Convention. In that respect, particular attention was drawn to the mandatory nature of compliance with the provisions of article 4 of the Convention concerning the prohibition of racial discrimination; the development of national institutions to protect and promote human rights, especially with regard to matters of racial discrimination; and the importance of providing human rights training and education to law enforcement officials.

232. In addition, the Committee recommended that steps be taken to rectify the omission of race as a ground for discrimination from national legislation. The State party should also give careful consideration to adopting measures to prevent discrimination and to providing for the punishment of discrimination in criminal law.

233. The Committee encouraged the State party to make the declaration under article 14 of the Convention and recommended that the State party should give serious consideration to setting up a national institution composed of independent members to monitor the implementation of human rights, including matters relating to discrimination.

234. Moreover, the Committee expressed the wish to receive further information, in the next report, on the actual status of the Convention in domestic legislation, particularly in cases where the provisions of domestic legislation conflicted with those of international instruments; on the situation of children of mixed parentage and foreign workers and the general social attitude towards them; on the actions taken to assure equal provision of education, medical and other care and employment opportunities for those persons living in the south-western region of the Republic of Korea as compared to those living in the south-eastern region; and on the provision of education and training to promote tolerance and better understanding of the principles and provisions of human rights instruments.

235. The Committee also expressed the wish to receive detailed information on the effectiveness of legal remedies for those who suffered from discriminatory practices and on specific cases where compensation had been provided to victims of such discrimination.

Zambia

236. The seventh, eighth, ninth, tenth and eleventh periodic reports of Zambia, submitted in one document (CERD/C/239/Add.2), were considered by the Committee at its 988th meeting, held on 3 August 1993 (see CERD/C/SR.988).

237. The reports were introduced by the representative of the State party, who stated that they had been prepared with due regard for the questions raised during the consideration of the sixth periodic report in 1985. He also drew the

Committee's attention to the core document (HRI/CORE/1/Add.22) submitted by his Government, which contained general information on the country.

238. The representative said that article 3 of the Constitution was based on the Charter of the United Nations and covered the main aspects of the Convention. He explained that the Convention was not directly applicable in Zambia and that its provisions had to be incorporated in national legislation to enable them to be invoked before the courts.

239. Being bordered by eight countries (Angola, Botswana, Malawi, Mozambique, Namibia, Tanzania, Zaire and Zimbabwe), Zambia received a large number of refugees from those countries, and from South Africa. Zambia provided many services for those refugees but lacked the resources needed to ensure their education. The country was also experiencing numerous problems connected with migratory flows and the presence in Zambia of a very large number of illegal migrants. All those problems had an adverse effect on the effective implementation of certain provisions of the Convention.

240. Members of the Committee welcomed the resumption of the dialogue between the Committee and Zambia, which had been interrupted for 10 years. They pointed out that Zambia had been governed by a single party during the major part of its existence as a sovereign State, and had experienced an uninterrupted state of emergency from 1964 to 1991, which had inevitably had negative effects on the protection of fundamental human rights. In the absence of any reports for more than 10 years, the Committee had been unable to assess the extent to which that situation had affected the struggle against racial discrimination in the country. They noted with satisfaction that the new Constitution of 24 August 1991 contained numerous provisions for the protection of fundamental human rights, but at the same time observed that the re-establishment of the state of emergency on 4 March 1993 could have adverse repercussions on human rights in Zambia. Members of the Committee also said that the lack of information about the ethnic composition of Zambian society, along with many gaps in the report, which had not been prepared in accordance with the Committee's general guidelines for the preparation of reports, made the Committee's task more difficult.

241. Regarding article 1 of the Convention, members of the Committee requested clarifications concerning complaints of ill-treatment of members of the Asian community and the alleged decrease in the size of the non-African portion of the Zambian population over the last 30 years. They also requested further information on the procedures for incorporating the Convention in Zambian legislation and on the effects that the re-establishment of the state of emergency might have on the implementation of the Convention.

242. With regard to article 4 of the Convention, members of the Committee, having noted that section 70 (1) of the Penal Code met the requirements set out in paragraph (a) of article 4 of the Convention, requested additional information on the implementation of paragraphs (b) and (c) of that article.

243. Concerning article 5 of the Convention, members requested further information about enjoyment of the civil, political, economic, social and cultural rights set out in article 5 of the Convention, having regard to the country's various ethnic groups.

244. With reference to article 6 of the Convention, members wished the Government to provide some examples of recommendations made by the Commission for Investigations (Ombudsman), which was responsible for dealing with complaints concerning racial discrimination; evidence of the effectiveness of the Presidential Tribunal with regard to administrative matters related to

tribalism; and information on the case law of the Industrial Relations Court and on the damages awarded to victims. They pointed out that article 23 of the Constitution was not in line with the provisions of article 6 of the Convention and asked for clarification.

245. With regard to article 7 of the Convention, members wished to know what measures had been taken by the Government of Zambia to improve the training of the police so that they would show greater respect for human rights; whether the Government was planning to have the Convention translated into the main languages spoken in the country; and whether the Government had requested assistance from the Centre for Human Rights in the preparation of reports, the translation of the Convention and the organization of seminars for members of the police, security services and armed forces on the effective protection of human rights.

246. Having noted that Zambia had ratified the Optional Protocol to the International Covenant on Civil and Political Rights, members asked whether the Government was planning to make the declaration provided for in article 14 of the Convention in order to recognize the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by the State of any of the rights set forth in the Convention.

247. The representative of the State party, replying to the questions asked and comments made by members of the Committee, explained that the shortness of the report was due to the fact that it had been prepared for the purpose of initiating a dialogue rather than to cover the period of 10 years that had elapsed since the previous report had been submitted, in 1983. He assured the Committee that all the comments and questions had been duly noted and that the next report would be prepared in accordance with the Committee's guidelines. He emphasized that the Government of Zambia wished to continue to receive technical assistance from the Centre for Human Rights.

248. The purpose of the state of emergency decreed in March 1993 was by no means to apply discriminatory measures or to arrest political opponents. No political party had been prohibited and freedom of expression had been maintained. With regard to the expulsion of foreigners, the representative explained that the expulsion measures did not concern refugees but smugglers who had entered the country illegally in order to steal the precious stones produced there.

249. The Asian community was well integrated into the population and there were no conflicts between the Zambian population and the population of Asian origin. The lack of conflict accounted for the lack of legislation in that regard.

Concluding observations

250. At its 1007th meeting, held on 17 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

251. The Committee welcomed the submission of the reports as evidence of the readiness of the Zambian Government to resume, after a delay of 10 years, a dialogue with the Committee. The Committee noted with regret that the report under consideration did not fully comply with the Committee's revised general guidelines for the preparation of reports and was inadequate. However, the oral dialogue allowed the Committee to clarify certain of its concerns and to re-establish cooperation with the Government of Zambia with a view to the effective implementation of the provisIons of the Convention.

(b) Positive aspects

252. The Committee noted with satisfaction the peaceful transition in Zambia in November 1991 from a one-party State to a multi-party democracy. It also noted that the new Constitution contained extensive provisions for the enjoyment of fundamental rights and their protection under the law. The Committee commended Zambia for the support it had given to the liberation struggle in southern Africa and the dismantling of apartheid. It appreciated the readiness of the Government of Zambia to harbour great numbers of refugees from various African countries.

(c) Factors and difficulties impeding the application of the Convention

253. The Committee noted that for most of its national existence, Zambia had been governed as a one-party State and from 1964 to 1991 had been continuously under a state of emergency with some negative effects on the overall human rights situation in the country. The reinstatement, on 4 March 1993, of a state of emergency may also have a negative impact on the effective application of the Convention. The Committee noted that the lack of adequate financial resources did not allow the Government to translate the Convention into the various languages spoken in the country or to carry out the necessary educational and training programmes in the field of human rights, especially for law enforcement officials.

(d) Principal subjects of concern

254. The Committee questioned the place of the Convention as a whole in the legal framework of Zambia and expressed concern at the lack of incorporation of the principal provisions of the Convention in municipal law, especially those contained in article 4, paragraphs (b) and (c). The Committee was also concerned about the recent declaration of a state of emergency; the treatment accorded to certain categories of refugees; and the reported cases of brutality with discriminatory overtones on the part of the police officers. In addition, the Committee was of the view that Zambian legislation had not effectively provided the remedy and compensation that should be available to an injured person in terms of article 6 of the Convention. Further, the Committee found that article 23.4 (c) of the 1991 Constitution was not in consonance with the requirements of article 1 of the Convention. It also expressed concern at reported discriminatory acts on the part of government officials against members of the Asian community in Zambia.

(e) Suggestions and recommendations

255. The Committee recommended that appropriate consideration should be given by the Government of Zambia to the effective incorporation of the provisions of the Convention in municipal law, particularly those of article 4 (b) and (c); that the text of the Convention should be translated and disseminated, at least among the principal linguistic groups, and that for that purpose the assistance of the Centre for Human Rights could be requested. Additionally, the Committee considered that, in the light of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, due consideration should be given to acceptance of the Committee's competence under article 14 of the Convention.

256. The Committee further recommended that, as stated in its General Recommendation XIII (42), law enforcement officials should receive intensive training to ensure that in the performance of their duties they respected as well as protected human dignity and maintained and upheld the human rights of all persons without distinction as to race, colour, descent or national or

ethnic origin. For that purpose, as well as for the preparation of the next report, the Committee recommended that the Government of Zambia should request the assistance of the Centre for Human Rights.

Islamic Republic of Iran

257. The Committee considered the ninth, tenth, eleventh and twelfth periodic reports of the Islamic Republic of Iran, submitted in a single document (CERD/C/226/Add.8), at its 989th and 990th meetings, held on 4 August 1993 (see CERD/C/SR.989 and 990).

258. In introducing the reports, the representative of the reporting State stated that his country was committed to pursuing policies, both nationally and internationally, designed to help eliminate racial discrimination in all its forms. Different ethnic groups existed in the Islamic Republic of Iran, but they had become mixed and interlinked in the course of history. All citizens were equal before the law and were equally entitled to participate in the political life of the country.

259. Members of the Committee welcomed the fact that the Government of the Islamic Republic of Iran had resumed its cooperation with the Committee eight years after the consideration of the previous report. They regretted, however, that the report had not been prepared in accordance with the Committee's guidelines for the presentation of State party reports and that it did not contain sufficient information allowing the Committee to assess how the Convention, particularly articles 5, 6 and 7 thereof, was implemented in practice in the Islamic Republic of Iran. They observed, in that connection, that statements by the Government rejecting all forms of racial discrimination were not sufficient to prove fulfilment of its obligations under the Convention.

260. Members of the Committee noted that the report contained no information about the ethnic composition of the country and recalled that such information had been requested by the Committee when it had considered previous reports of the Islamic Republic of Iran and that the Iranian representative had promised to provide it. They wished to know, in particular, whether Turks, Turkomen, Kurds, Lurs, Baluchis, Farsis and Arabs were the only ethnic and linguistic groups in the country; what the status of the Lurs and the Baluchis was; what the differences between the Turks and Turkomen were; and what the policy of the Government was with regard to the Baluchis. Detailed information was also requested about the extent to which children of minority ethnic groups received instruction at school in their mother tongue, as well as the percentage, in Iranian legislative bodies, of elected members from ethnic, religious and linguistic minorities. It was observed that, as approximately 50 per cent of the whole Iranian population belonged to minority groups, it was important to know their status and the way in which they fitted into the political, economic, social and cultural life of the country. Members of the Committee also asked whether economic and social projects were under way to improve the level of development and living conditions of persons belonging to minority groups; what the proportion was of posts in the public service and in the principal professions which were held by members of ethnic minorities; how many of them achieved a higher education; what the position was of Kurdish opposition groups; and whether population censuses registered citizens by ethnic background. Members of the Committee stressed that ethnic monitoring in the Islamic Republic of Iran would be a way of assessing whether the State party's professed policy of ensuring racial respect was being implemented in practice.

261. Referring to article 2 of the Convention, members of the Committee observed that the provisions of article 19 of the Constitution of the Islamic Republic of Iran, according to which members of all ethnic groups or tribes enjoyed equal

rights, were not entirely equivalent to the prohibition of racial discrimination required under the Convention. It was also suggested that the Iranian authorities should promote research into where, if anywhere, racial discrimination actually occurred in the society. In addition, it was asked whether any integrationist multiracial organizations existed in the Islamic Republic of Iran.

262. With regard to article 4 of the Convention, members of the Committee requested information on the practical application in the Islamic Republic of Iran of the Law of Punishment for Racial Discrimination Propaganda (1977). They asked, in particular, whether any cases had been brought to court under that law and, in that connection, what the status of the Convention was vis-à-vis the Constitution and legislation and whether the Convention could be invoked directly in the courts.

263. In connection with article 5 of the Convention, members of the Committee stressed that, since no information had been provided by the Government on the implementation of that article, they had to rely on other information emanating from the Special Rapporteur on the Islamic Republic of Iran of the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and non-governmental organizations active in the field of human rights. They understood that there were groups (Pasdasan and Basij) exercising police functions that did not form part of the State's security forces, and enquired about measures to ensure that those groups acted in accordance with the law and the State's international obligations. Were police and military personnel trained in human rights? Some information indicated that discriminatory measures were applied against followers of religions not recognized in the Islamic Republic of Iran, especially the Baha'is and that the latter religious community was subjected to particularly serious human rights violations. Members of the Committee, therefore, asked whether the Baha'i community was distinguished by descent; why it was discriminated against and its religion denied official recognition; why it was prohibited from electing leaders and conducting religious activities; why Baha'i marriages were not recognized and Baha'is denied access to higher education and to certain economic activities and employments. Members of the Committee also wished to know to what extent the various ethnic and religious groups in the Islamic Republic of Iran enjoyed the right to participate without distinction in elections, the right to freedom of thought, conscience and religion, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association.

264. With reference to article 6 of the Convention, information was requested concerning the Iranian judicial system and, in particular, the procedures for training judges, their status, independence and tenure of office and the existence of any judges coming from minority groups. It was pointed out that numerous allegations indicated that violations of human rights, including arbitrary arrests, summary executions, torture and cruel and degrading treatment, were perpetrated by the Revolutionary Guards and it was asked what the Government had done to ensure that the Revolutionary Guards acted in accordance with the law and international obligations assumed by it and what protection and remedies were made available to individuals in the case of violation of their rights.

265. In connection with article 7 of the Convention, it was asked whether any training in human rights was provided to the police and military personnel.

266. In his reply, the representative of the State party pointed out that some of the questions raised by members of the Committee had been answered in the reports recently submitted by his Government to the Human Rights Committee and

to the Committee on Economic, Social and Cultural Rights and in the statements made by the representative of his country when those reports had been considered by the two aforementioned bodies.

267. Concerning the composition of the population of the Islamic Republic of Iran, the representative said that no census showing the ethnic background of Iranian citizens had been carried out in the country. The State sought to protect individual rights and freedoms irrespective of any ethnic consideration, and there was no mention of ethnic background in application forms for jobs, posts in the public service or university enrolment. As for the composition of the Iranian Parliament, it consisted of less than 300 members; three seats were reserved for Christians whereas Muslims held 200 seats. Furthermore, there were linguistic groups in the country, but the persons belonging to them were simply Iranians who spoke different languages.

268. Concerning article 2 of the Convention, the representative stated there was no multiracial organization in his country working for objectives of its own, since Iranian society was not multiracial.

269. With regard to article 5 of the Convention, the representative rejected the allegations of human rights violations in the Islamic Republic of Iran contained in reports or resolutions of the Commission on Human Rights and the Subcommission on Prevention of Discrimination and Protection of Minorities, and in information provided by non-governmental organizations. He went on to say that the Iranian State, like 51 other Islamic States, did not recognize the Baha'is as a religious group, but that, in accordance with the Iranian Constitution, no one could be attacked or reprimanded for their opinions, and the rights of all citizens had to be protected regardless of their ideas, convictions or political tendencies. The Baha'is were consequently not subject to any prohibition, particularly with regard to access to university on the basis of their beliefs.

270. Concerning article 6 of the Convention, the representative said that in his country the Court of Administrative Justice, under the authority of the Supreme Council of Justice, was responsible for considering complaints, grievances and protests by individuals against government officials, bodies or regulations, or concerning recognition of their rights. Generally speaking, training courses in human rights were provided for judges.

Concluding observations

271. At its 1009th meeting, held on 18 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

272. The Committee welcomed the resumption of the dialogue with the Government of the State party eight years after the consideration by the Committee of the previous report. The Committee regretted, however, that the twelfth periodic report did not contain useful information that would enable it to examine the implementation of the Convention by the State party. The report had not been drawn up in accordance with the Committee's guidelines for the presentation of State party reports (CERD/C/70/Rev.3). It provided very little information on legislative provisions against racial discrimination and did not contain information on judicial and administrative practices relating to the implementation of the Convention by the Islamic Republic of Iran. Compared to the eighth periodic report of the State party, considered in March 1985, the twelfth periodic report was a step backwards. The Committee welcomed the information provided orally by the representative of the reporting State, which

clarified many issues, although a great number of questions raised by the Committee had remained unanswered. The lack of information had made it difficult for the Committee to assess how the Convention was being implemented in the Islamic Republic of Iran. The Committee therefore had to rely upon other sources of information such as the reports of the Special Rapporteur on the Islamic Republic of Iran of the Commission on Human Rights and the reports of non-governmental organizations, to assess to what extent the State party was confirming to the international commitments it had assumed under the Convention.

(b) Principal subjects of concern

273. The Committee noted the lack of information which should have been provided by the Government of the Islamic Republic of Iran with regard to the legal status of the Convention in the domestic legislation, the possibility for individuals to invoke the provisions of the Convention directly before the courts and the demographic and ethnic composition of the Iranian population. With regard to the latter point, the Committee recalled that detailed information on ethnic, religious and linguistic groups and on the demographic composition of the population had been promised by the representative of the State party when the seventh report had been considered by the Committee in 1983.

274. The Committee expressed concern, in particular, at the lack of information with regard to the implementation by the Islamic Republic of Iran of the provisions of articles 4, 5, 6 and 7 of the Convention. In that connection, the Committee wished to be informed about the treatment and the situation of ethnic, religious and linguistic minorities in the Islamic Republic of Iran. Reference was made, for example, to the situation of the Baha'i community, as well as of the Kurds and other ethnic minorities.

(c) Suggestions and recommendations

275. The Committee recommended that its comments and observations made in connection with the consideration of the ninth, tenth, eleventh and twelfth periodic reports of the Islamic Republic of Iran should be studied by the authorities of the State party with a view to their adopting the necessary legal, judicial and administrative measures to give effect in practice to all the provisions of the Convention.

276. The Committee also recommended that the next periodic report of the Islamic Republic of Iran should be prepared in accordance with the Committee's guidelines for the presentation of State party reports. It should, in particular, include information about the demographic composition of the population and the ethnic, linguistic and religious groups in the territory of the State party and should explain how they participated in the political, economic, social and cultural life of the country. Information was also necessary with regard to concrete measures taken by the Government to guarantee to individuals belonging to those groups the enjoyment of the rights enumerated in article 5 of the Convention without discrimination. The Committee recalled that if the Islamic Republic of Iran so requested, it could receive expert advice for the preparation of its next periodic report under the programme of advisory services and technical assistance of the Centre for Human Rights.

277. In view of the fact that more than eight years had elapsed between the consideration of the previous (eighth) periodic report of the Islamic Republic of Iran in 1985 and of its twelfth report in 1993, and taking into account the lack of relevant information provided in that report, the Committee requested the State party to take the views and comments of the Committee into consideration when preparing its next periodic report, which was due to be

submitted on 5 January 1994 so that it could be considered at one of the Committee's sessions in 1994.

Holy See

278. The Committee considered the combined eleventh and twelfth periodic reports of the Holy See (CERD/C/226/Add.6) at its 991st and 992nd meetings, held on 5 August 1993 (CERD/C/SR.991-992).

279. The representative of the State party who introduced the report emphasized that the Catholic Church's categorical rejection of racial discrimination was enshrined in basic documents such as the 1983 Code of Canon Law, the main legislative document of the Latin Church, and more recently, the Code of Canon Law for the Eastern Churches.

280. The representative also referred to the many initiatives taken by the Church in support of victims of discrimination, such as indigenous peoples, minorities, displaced persons and refugees, and to the work of the Pontifical Council on migrants and displaced persons and Catholic aid agencies. He also mentioned the Catholic Church's concern at the emergence of new forms of racism and xenophobia, with particular reference to Europe and the practice of ethnic cleansing in the former Yugoslavia, as well as to the situation in Palestine and in South Africa.

281. The representative also pointed out that in view of the religious dimension of many conflict situations, efforts had been undertaken to promote dialogue between religions through the Pontifical Commission for religious relations with Judaism and the Pontifical Commission for religious relations with Muslims.

282. In addition, the representative drew attention to the contents of the document entitled "The Church confronted with racism - for a more brotherly society", published in 1989 by the Pontifical Council, which addressed various issues of racism and offered guidance in promoting brotherhood and solidarity between races. In that connection, he indicated that in order to eliminate racist behaviour of whatever kind from society it was necessary to have a firm conviction of the dignity of every human being and the unity of the human family, and that the major contribution of the Holy See in meeting its obligations under the Convention lay in its capacity to educate individuals' consciences to contribute to attenuating the conflicts and divisions between races and ethnic groups.

283. Members of the Committee expressed their gratitude to the State party's representative for the detailed information he provided orally. They sought information, in general, as to the role played by the State party and the Catholic Church, particularly through its presence at the grass-roots level, in contributing to the realization of the principles and provisions laid down in the Convention.

284. Members of the Committee, emphasizing the importance of developing greater understanding, openness and tolerance between all religions, requested information on the actions taken by the State party to promote dialogue between different churches and religions and the peaceful coexistence of faiths. Members of the Committee also expressed concern at and sought clarification of the practice of the Catholic Church that required children of mixed-faith marriages to be brought up according to the Catholic faith.

285. Members of the Committee wished to receive further information on the activities undertaken by the State party to support United Nations efforts and actions to combat racism and racial discrimination.

286. In respect of article 2 of the Convention, members of the Committee requested information on the measures taken to encourage multiracial organizations and movements.

287. With regard to article 3 of the Convention, members of the Committee wished to receive further information on the State party's position on apartheid.

288. In connection with article 6 of the Convention, members requested further information on the work undertaken by the Catholic Church in support of victims of discrimination in different geographical regions.

289. In respect of article 7 of the Convention, further information was sought on the educational and institutional measures taken by the Holy See and the Catholic Church to combat racial prejudice and to persuade people to live harmoniously together. Equally, members of the Committee requested the State party to provide details of the breakdown by ethnic or racial origin of pupils in Catholic schools, as well as information on efforts undertaken to promote educational opportunities in Catholic schools for the most disadvantaged groups in society.

290. In connection with article 11 of the Convention, it was asked whether the State party might consider taking action under the provisions of that article.

291. In reply to the various questions raised and comments made by members of the Committee, the representative of the State party provided information on the efforts undertaken by the Holy See and the Catholic Church to address injustices and to combat discrimination. He indicated that those activities were often conducted through the Church's work with the most disadvantaged groups in society, who were most likely to suffer discrimination on account of their ethnicity and poverty. Mention was also made of the activities of the Catholic Church, particularly within Latin America, to fight injustice resulting from poverty.

292. The representative informed the Committee of the action being taken by the Holy See to promote inter-religious dialogue with Judaism and Islam and inter-church dialogue in Eastern Europe with the Moscow patriarchy. He also emphasized the importance accorded by the State party to respect for minorities and the principles laid down in international instruments on human rights and international humanitarian law. In that connection, he provided information about the action taken by the Holy See to address concerns raised within the framework of the conflict situation in the former Yugoslavia.

293. Concerning article 3 of the Convention, the representative stressed that Catholic institutions based in the country which officially practised apartheid not only taught about coexistence between the races, but also encouraged such action.

294. In respect of article 6 of the Convention, the representative outlined activities undertaken to protect persons suffering from discrimination. In that regard, mention was made of the work of the local Catholic Church in German communities in the service of refugees. In the context of Latin America, details were given of the Church's work with local indigenous communities. The representative indicated that the State party's next periodic report would contain further information on the work undertaken by the Catholic Church in different countries in Africa and Asia.

295. With regard to article 7 of the Convention, the representative explained that the principle of non-discrimination was an essential element of the teaching in Catholic educational establishments and of the Catholic Church at

all levels of society. Statistics on the provision of education in Catholic schools for the most disadvantaged groups in society were not available at the current time.

Concluding observations

296. At its 1007th meeting, held on 17 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

297. The Committee welcomed the information contained in the reports and the additional information presented orally. The Committee expressed its appreciation to the representatives of the State party for their cooperation and efforts to reply to many of the questions raised and was of the view that the dialogue with the State party was particularly useful.

(b) Positive aspects

298. The Committee welcomed the State party's recognition of the very important role the Holy See and the national Catholic Churches could play throughout the world to achieve the aims and objectives of the Convention. The Committee also appreciated the readiness expressed by the State party to foster tolerance and non-discriminatory attitudes, and to counter racial discrimination.

(c) Factors and difficulties impeding the application of the Convention

299. The Committee recognized that the exceptional nature of the status of the State party determined the directness of the measures it could take to implement fully the provisions of the Convention.

(d) Principal subjects of concern

300. The Committee noted the absence of concrete information in the report of the State party on the practical activities it had undertaken to implement the provisions of the Convention, particularly article 7.

(e) Suggestions and recommendations

301. The Committee recommends that the next report to be submitted to it should contain further information on the practical activities undertaken and policies pursued by the Holy See for the implementation of the provisions of the Convention in different geographical regions of the world. The Committee also wished to receive further information on the practical activities being undertaken by the State party to support United Nations action against racism and racial discrimination and to defend victims of racism. Information on the proportion of ethnic groups and races educated in Catholic schools set in multiethnic societies would be welcomed by the Committee.

302. In addition, the Committee wished to receive information on the efforts the State party intended to undertake to encourage the establishment and work of multiracial movements throughout the world.

303. Given that educational activities were one of the most important means of fighting against racial prejudice and for harmony between different groups, the Committee recommended that further efforts of the State party should be focused on the implementation of article 7 of the Convention and that the State party should undertake further measures to promote equality of educational opportunities.

304. The Committee, noting the important religious factor prevalent in many situations of ethnic conflict, recommended that the State party should become more active in conflict prevention and resolution efforts. It also recommended that the State party, wherever possible, should undertake further measures to promote inter-religious dialogue, especially in ethnic conflict situations displaying a religious component, and should try to exercise an ameliorating effect in that respect.

305. In view of the moral influence wielded by the Holy See and the national Catholic churches, the Committee also suggested that the State party should take a more active stance against unjust systems which had the effect of fostering racist attitudes, as well as against any tendency towards racism and xenophobia which might develop in national societies.

Nigeria

306. The tenth, eleventh and twelfth periodic reports of Nigeria, submitted in one document (CERD/C/226/Add.9), were considered by the Committee at its 993rd and 998th meetings, held on 6 and 10 August 1993 (see CERD/C/SR.993 and 998).

307. The reports were introduced by the representative of the State party who indicated that with a population of over 88.5 million Nigeria was the most populous black country in the world. The predominant ethnic groups were the Hausa, Fulani, Yoruba and Ibo. Other major ethnic groups included the Edo, Ibibio, Isoko, Urhobo, Itsekiri, Kanuri, Nupe, Efik, Ijaw, Egbira, Idoma, Tiv, Kamiri, Chambe, Gwaris and Ekoi, and there were over 200 smaller ethnic groups with their own culture and traditions. Despite their ethnic, cultural and linguistic diversity, Nigerians exhibited a cohesiveness that was a product of centuries of trade, inter-marriage and other contacts.

308. The civil, political, economic, social and cultural rights of all Nigerians, regardless of the race or minority to which they belonged, were ensured and protected by a number of institutions, such as courts of law, which were independent of governmental control, and the Public Complaints Commissioner, whose office had been in existence for two decades and who handled complaints from individuals, groups and corporate bodies. The Code of Conduct Bureau had been established to complement the efforts of the Public Complaints Commissioner. The Nigerian Law Review Commission regularly reviewed national laws to bring them into line with contemporary domestic issues and international legal instruments. Additionally, Nigeria had recently established a human rights monitoring unit under the Federal Ministry of Justice in order to enhance the implementation of human rights instruments and to receive petitions and complaints on human rights violations. State governments had similar units in their justice ministries.

309. Members of the Committee welcomed the resumption of dialogue with Nigeria and expressed the hope that Nigeria's cooperation with the Committee would be regular in the future. They noted that the report under consideration failed to answer the many questions raised during the consideration of the ninth periodic report and to comply fully with the Committee's guidelines. They also regretted the absence of detailed information on the ethnic composition of Nigerian society, which was crucial for the Committee's monitoring of the implementation of the Convention. They requested additional information on the numerous internal conflicts and ethnic violence and their causes, and concerning the recent suspension of basic guarantees for the enjoyment of fundamental human rights. Additional information was also requested as to especially vulnerable groups, such as the Ogoni, who were suffering from the degradation and pollution of their lands as a result of oil exploitation by multinational corporations, as well as from acts of the police and oil companies. In the latter connection,

members wished to know how the Government planned to accede to the demands of minorities to manage their own economies and resources; what the effects of the Nigerian Enterprises Promotion Decree of 1989 (repealing the Indigenization Decree of 1977) would be in regard to the participation of local ethnic groups in the exploitation of natural resources. They also wished to have more detailed information concerning the impact of the policy of national unity on ethnic and religious minority groups in 30 states. They considered that the tense political situation in Nigeria, which was the result of many factors, not least ethnic and religious difficulties which were surfacing, adversely affected the implementation of the Convention, and they felt that the Committee should keep the implementation of the Convention by Nigeria under review, taking it up again at its next session.

310. With respect to article 1 of the Convention, members asked what the rights and guarantees of non-citizens were under the Constitution and why a distinction was made in national legislation between citizens of Nigeria by birth and other Nigerians.

311. In regard to article 2 of the Convention, members of the Committee wished to know how the Government of Nigeria encouraged the formation of integrationist multiracial organizations and movements, referred to in paragraph 9 of the report, how those organizations functioned and what their impact was on general government policy with respect to the implementation of the Convention.

312. As far as article 3 of the Convention was concerned, members of the Committee congratulated the Government of Nigeria on the steps taken, especially at the international level, to implement its provisions, but pointed out that Nigeria must also undertake to prevent, prohibit and eradicate all practices of racial segregation in the territories under its jurisdiction.

313. While noting that Section 39 of the Constitution of Nigeria seemed to meet the requirements of article 4 of the Convention, members of the Committee indicated that the report did not explain how its provisions were implemented. In addition, they pointed out that the definition of "seditious intention" did not cover all the instances of racial discrimination contemplated in article 4 and asked for further clarification on that issue. Members felt that the system of special courts and military tribunals was not compatible with the protection of the rights set out in article 4 of the Convention. Furthermore, clarification was sought of the reported proscription by a Decree of 20 May 1992 of all ethnic, religious and regional associations that had supported political candidates. Finally, members asked whether the Constitution prohibited the existence of racist organizations or banned participation in such organizations.

314. Having emphasized that under article 5 of the Convention the State had an obligation to guarantee the civil, political, economic, social and cultural rights of the whole population and not just of citizens, members wished to receive more detailed information on the implementation of all its provisions. They asked, in particular, what had been done to ensure the fair and equitable representation of all ethnic groups in federal and states' Parliaments and what concrete steps had been taken to achieve national reconciliation; what action had been envisaged to prevent regional interference and the long-term dissolution of local government councils; whether the right to freedom of opinion and expression was guaranteed by law; whether freedom of movement and residence was permitted within the borders of the State; what the prospects were for increased investment in employment, education and housing and what the Government policy was in this regard.

315. In connection with article 6 of the Convention, members wished to know whether victims of acts of racial discrimination had the right to compensation;

how human rights institutions, such as the office of Ombudsman, functioned; to what extent those institutions were independent and how far the Government responded to their recommendations.

316. With respect to article 7 of the Convention, members of the Committee wished to know whether training was provided for officials who had to deal with ethnic conflicts, with a view to eradicating prejudice which lead to racial discrimination and to fostering understanding and tolerance among racial and ethnic groups.

317. Replying to the questions asked and comments made, the representative of the State party said that Nigeria would henceforth maintain its dialogue with the Committee and that every effort would be made to submit the reports in time. The concept of national unity was not at variance with the existence of many ethnic groups. It was part of the aspiration to forge a single nation so that all citizens would consider themselves Nigerians and put Nigeria first. It by no means implied prohibition of the culture, language and traditions of different ethnic groups. The report did not contain data on the demographic composition of Nigeria because such figures were not available; the population census carried out two years previously had not provided for the collection of information on ethnic groups or religion, in order to prevent states from inflating figures in order to increase their revenue from the Federal Government, as had happened in the past.

318. The representative provided the Committee with some information on the institutional organization of the Nigerian Federal State and said that the past practice of states of depriving local governments of the funds allocated to them by the Federal Government had been eliminated by the direct transfer of 10 per cent to local governments. The various conflicts referred to by members as ethnic or religious, had in fact been triggered by economic factors, such as the land question. The way to control "ethnic" conflicts was by tackling the underlying cause - the underdevelopment of the country. The representative provided further information with respect to the situation of the Ogoni in Rivers State, pointing out that the Federal Government gave back to the oil-producing areas the 3 per cent of the total revenue from oil exploitation reserved for their development, and 2.5 per cent for the protection of the environment.

319. With regard to article 4 of the Convention, the representative said that the Government discouraged people from forming political parties based on religious or ethnic criteria, since such criteria necessarily implied the exclusion of certain sections of the population; any such party that gained power would be unrepresentative of the whole nation that it ruled.

320. With respect to article 6 of the Convention, the representative of the State party informed the Committee that the Nigerian legal system did not prevent anyone who considered he had suffered racial discrimination from seeking remedy through the courts. There were three levels of courts: magistrate courts, High Courts and the Supreme Court. Some states also had customary courts, such as Shariah courts, for dealing with problems of custom and practice specific to certain areas.

Concluding observations

321. At its 1008th meeting, held on 17 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

322. The Committee noted the submission of the report which, however, did not fully comply with the Committee's revised guidelines on the preparation of reports. The resumption of the dialogue with the representative of Nigeria had contributed to a better understanding of the situation in that country. The Committee hoped that in the future the State party would comply with its obligations under article 9 of the Convention. The Committee noted that, in response to questions asked and comments made by members, some additional information had been provided orally by the delegation. The Committee welcomed the Government's commitment to supply it with additional written information.

(b) Positive aspects

323. The Committee noted with interest that, since its independence, Nigeria had been striving to reconcile regional and religious tensions and to accommodate the interests of diverse ethnic groups. The recent creation of nine additional states within the Federal Republic of Nigeria attested to that trend. The expected entry into force on 27 August 1993 of a new Constitution and transition from military to civilian rule would enhance democratic development thus creating favourable conditions for a more effective implementation of the Convention. The Committee noted with appreciation the steps Nigeria had taken at the international level to implement article 3 of the Convention.

(c) Factors and difficulties impeding the application of the Convention

324. The Committee noted that the advent of an elected government would contributed to the improvement of the overall human rights situation in the country, which, apart from a rather tense political situation, was also considerably influenced by a severe economic crisis and continuing interethnic or religious conflicts.

(d) Principal subjects of concern

325. The Committee expressed its concern over the ongoing interethnic conflicts. The Committee was particularly concerned over reports that the Nigerian Police Force had, in some circumstances of violence, been ineffective in protecting the rights of civilians.

326. The Committee found that national legislation, particularly Section 50, paragraph (d), subsection (21), of the Nigerian Criminal Code, did not fully meet the requirements of article 4 of the Convention and that the provisions of article 5 of the Convention were not adequately implemented.

(e) Suggestions and recommendations

327. The Committee recommended that national legislation be brought into full compliance with the provisions of the Convention, in particular regarding a definition of racial discrimination (article 1 of the Convention); prohibition of racist organizations and propaganda activities that promote and incite racial discrimination (article 4 (b) of the Convention); the effective enjoyment of the rights set forth in article 5 of the Convention; and the provision of effective protection and remedies to everyone within the jurisdiction of the State party against any acts of racial discrimination (article 6 of the Convention).

328. Furthermore, the Committee requested that in its next report the Government of Nigeria should provide it with better data on the ethnic composition of the society.

329. In the light of all information available to it, the Committee found that the actual situation in Nigeria warranted a closer monitoring of the implementation of the Convention and decided to request the Government of Nigeria to provide the Committee with additional information to be considered by the Committee at its spring session in 1994.

Viet Nam

330. The Committee considered the combined second to fifth periodic report of Viet Nam (CERD/C/204/Add.1) at its 994th and 1005th meetings held on 6 and 16 August 1993 (CERD/C/SR.994 and 1005).

331. The report was introduced by the representative of the State party, who informed the Committee of the considerable efforts made by his country in meeting its obligations under the Convention and of the factors and difficulties it faced, as a developing country undergoing economic reconstruction, in implementing the provisions of the Convention.

332. The representative provided details of the ethnic composition of the population of Viet Nam and of the measures taken to address the situation of the various ethnic groups, drawing attention, in particular, to the plan adopted for the socio-economic development of the mountainous areas where many ethnic minorities lived. The role of international cooperation and assistance in improving the conditions of ethnic minorities was also outlined.

333. Members of the Committee welcomed the re-establishment of the dialogue with the State party and expressed appreciation for the detailed information provided in the report and the introductory statement of the representative of Viet Nam. However, they sought clarification on various matters, including the status of the Convention within domestic law and whether the provisions of the Convention could be invoked before the courts.

334. With regard to matters of a general nature, members of the Committee sought further information on the composition of the Council of Nationalities and the Committee for Mountainous Regions and Ethnic Minorities Affairs, the election of their members and their effectiveness in practice. They also wished to know whether a preliminary review and evaluation of the implementation of the socio-economic plan for the mountainous areas had been undertaken.

335. Members of the Committee also requested clarification on reports received concerning the displacement of populations from different regions to the Mekong Delta. In addition, concern was expressed at reports of discrimination on the grounds of regionalism, religion or mixed parentage, as well as discrimination practised against persons who voluntarily repatriated to Viet Nam or had been held in detention, and at the situation of Vietnamese residing abroad. Information was also requested about the situation of persons of Chinese and Cambodian origin resident in the State party.

336. In connection with the implementation of article 4 of the Convention, concern was expressed that not all of the acts prohibited under the provisions of that article were covered by article 81 of the State party's Penal Code.

337. Concerning article 5 of the Convention, members of the Committee expressed concern at reports received of practices which undermined the equal enjoyment by all persons of the rights contained in that article. In that connection, they wished to receive statistics on the percentage of ethnic minorities of the mountainous regions employed as police, teachers, civil servants and soldiers.

338. In respect of article 6 of the Convention, members of the Committee wished to receive information in the State party's next periodic report on the number of complaints of acts of racism and racial discrimination which had resulted in court action and of any sentences applied by the courts in such cases.

339. With regard to article 7 of the Convention, members of the Committee requested further details concerning activities undertaken by the mass media to disseminate information on the principles and provisions of the Convention, and sought clarification as to the availability of the texts of international human rights instruments in different minority languages and human rights training given to law enforcement officials. The attention of the State party was drawn to the possibility of requesting technical assistance from the Centre for Human Rights on those matters.

340. Members of the Committee expressed the hope that the State party would give serious consideration to making the declaration under article 14 of the Convention and would also undertake to withdraw its reservations to the Convention.

341. In reply to questions raised by members of the Committee, the representative of the State party provided detailed explanations of his Government's response to the refugee issue, including the conditions governing the implementation of the policy on repatriation within the framework of the Plan d'action global en faveur des refugies and bilateral agreements. Vietnamese returning to their country under bilateral agreements were not persecuted for their illegal departure from the country but could be brought to justice for crimes, such as theft or murder, committed before their departure from Viet Nam.

342. The representative of the State party informed the Committee that the provisions of international instruments to which Viet Nam was a party could be invoked before the courts and that domestic legislation was being brought into conformity with the provisions of international instruments, as appropriate.

343. With regard to the composition, powers and practical influence of the Council of Nationalities and the Committee of Mountainous Regions and Ethnic Minorities Affairs, the representative explained that the Council could propose policies with regard to ethnic minorities to the Council of Ministers. Members of the Council of Nationalities could also attend meetings of the National Assembly and the Prime Minister's Cabinet when questions concerning ethnic minorities were being discussed. As for the work of the Committee on Mountainous Regions and Ethnic Minorities Affairs, it mainly dealt with matters relating to the development of the mountainous regions and improvements in the situation of ethnic minorities. As such, the Committee had the right to supervise and monitor the action taken by Ministers with regard to ethnic minorities and also dealt with resource and budget allocations to ethnic groups.

344. In addition, the representative informed the Committee that quotas existed for candidates of ethnic minority groups to the National Assembly and Regional People's Committees. Preferential treatment and policies were also applied to ethnic groups in order to improve their situation with regard to socio-economic development. At the regional level efforts were under way to try to reduce the differences in the levels of development between the lowland and highland areas of the country.

345. The representative also provided information on the history and distribution of ethnic groups within Viet Nam and indicated that actions relating to the redistribution of populations was determined at the provincial and not the national level. With regard to the situation of persons who had

been loyal to the former regime in Viet Nam and Amerasians, he pointed out that programmes were available to assist the former to emigrate, if they so wished, and that a street children project initiated by the Ministry of Labour and a non-governmental organization benefited some children of Amerasian origin. The situation of persons of Chinese ethnic origin was being addressed through bilateral contacts at the highest political levels.

346. The representative also briefly addressed matters relating to freedom of religion, the situation of persons of Vietnamese origin currently living in Eastern Europe and the former Soviet Union, as well as his Government's policy on visa requirements for leaving the country. On the matter of religious freedom he indicated that that right was guaranteed by the Constitution and that harmony between religions was being sought, especially as the issues it involved were sensitive ones which should not be exploited to create instability in the country. Concerning the situation of persons of Vietnamese origin living in Eastern Europe and the former Soviet Union, the representative informed the Committee of his Government's willingness to address such concerns through bilateral relations. On the matter of the requirement of visas for leaving Viet Nam, the representative indicated the reasons for having retained that system.

347. Finally, the representative informed the Committee that the next periodic report of Viet Nam would contain information on questions and concerns raised during the examination of the currently being considered report.

Concluding observations

348. At its 1009th meeting, held on 18 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

349. The Committee expressed its appreciation to the State party for the information contained in its report and the supplementary information provided by the State party representative. The Committee welcomed the resumption of the dialogue with the State party and noted with satisfaction that reports submitted by Viet Nam had been recently considered by several other human rights treaty bodies.

(b) Positive aspects

350. The Committee noted with satisfaction that the State party had undertaken to move towards a fuller establishment of the rule of law and to reform its legislation in line with its obligations under various international human rights treaties.

351. The Committee also welcomed the State party's efforts to improve the level of socio-economic development of ethnic minorities, especially of those living in the mountainous regions of the country.

(c) Factors and difficulties impeding the application of the Convention

352. The Committee noted the difficulties encountered by the State party during the current transitional period of economic and social reconstruction following years of war.

(d) Principal subjects of concern

353. With regard to the implementation of article 4 of the Convention, the Committee expressed concern that article 81 of the Penal Code did not refer to

all the acts of ethnic or racial discrimination prohibited by the Convention. Furthermore, the Committee noted the insufficiency of the information provided on the practical implementation of articles 5 and 6 of the Convention, in particular regarding ethnic and religious minorities, refugees, children of mixed origin and Vietnamese abroad.

354. The Committee was also concerned that the difficulties faced by the State party during the current period of reconstruction should not adversely affect the development of further initiatives to improve the implementation of programmes designed for the benefit of the most disadvantaged sectors of society, especially ethnic minorities.

(e) Suggestions and recommendations

355. The Committee recommended that the State party should prepare, as soon as possible, the core document containing information of a general nature.

356. The Committee would appreciate receiving in the next report further information on progress achieved in respect of development plans designed to improve the situation of ethnic minorities, particularly those living in the mountainous regions. Information was also requested on: the practical implementation of the Convention, in general; measures taken with regard to the implementation of article 4 of the Convention; developments with regard to freedom of movement, freedom of opinion and freedom of religion; the number of complaints of racial discrimination received and considered by the courts, and the judgements handed down in such cases.

357. The Committee suggested that further measures should be taken to implement more fully article 7 of the Convention, and that technical assistance should be called upon for the translation of international instruments into minority languages.

358. The Committee expressed the hope that the State party would consider making the declaration under article 14 of the Convention and recommended that the State party should seriously consider withdrawing its reservations under the Convention.

Kuwait

359. The tenth, eleventh and twelfth periodic reports of Kuwait, submitted in one document (CERD/C/226/Add.5), were considered by the Committee at its 995th and 996th meetings held on 9 August 1993 (see CERD/C/SR.995 and 996).

360. The report was introduced by the representative of the State party, who pointed out that Kuwait categorically rejected racial discrimination and was committed to implementing all the provisions of the Convention. Discrimination was unknown to Kuwaiti society, and it had therefore been considered unnecessary, at the time of the drafting of the 1963 Constitution, to make a specific reference to discrimination on grounds of colour or race. Since its accession to the Convention in 1968, Kuwait had been diligent in reporting to the Committee. However, circumstances beyond its control had prevented timely submission of the tenth, eleventh and twelfth reports.

361. Members of the Committee welcomed the resumption of the dialogue with the State party, which was still recovering from the effects of the invasion it had suffered recently, and expressed appreciation for the fact that the report submitted by Kuwait was more elaborate than the previous ones and largely followed the Committee's guidelines for the preparation of reports. They nevertheless expressed regret that the report did not provide sufficient

information on practical measures taken in the country to implement the Convention. They noted that the statement in the report that "the State of Kuwait ... has witnessed no discriminatory racial practices among its inhabitants" seemed to be in contradiction with various reports of discriminatory policies and practices affecting certain categories of the population. It was pointed out that the report did not seem to have fully taken into account the very comprehensive definition of racial discrimination given in article 1 of the Convention, which included discrimination on grounds of colour, descent, or national or ethnic origin.

362. Recalling that States parties were under an obligation to report fully on legislative measures relating to foreigners and their implementation, members of the Committee wished to receive further information on the situation of non-Kuwaitis residing in the country following the liberation of Kuwait. They requested more details about the demographic composition of the country, including statistics on the number of foreign residents who had left the country after its liberation. Members asked for more precise information on the current situation of certain categories of persons who were reported to be in a very vulnerable position. According to reports from various sources, the Bedoons and the Palestinians had been subjected to ill-treatment, detention, expulsion and torture on the grounds of alleged sympathy for Iraq; many were said to have been dismissed from public sector employment and their children had been excluded from the public school system. Similar problems were reportedly faced by Iraqi nationals and citizens of other countries that had not participated in the coalition. In addition, it was alleged that many domestic staff of Asian origin, mainly women, were subjected to debt bondage, other illegal employment practices, passport deprivation, illegal confinement, rape and physical assault. Members requested information on measures taken by the Government to improve and remedy that situation.

363. With regard to article 2 of the Convention, members of the Committee requested additional information on differences in the rights of those who had acquired Kuwaiti citizenship since 1922 by comparison with those descended from persons having that citizenship earlier; that appeared to be in conflict with the obligation under the Convention.

364. In connection with the implementation of article 3 of the Convention, it was asked whether any de facto segregation occurred on the basis of ethnic or national origin.

365. Concerning article 4 of the Convention, members of the Committee noted that although Kuwait had reiterated its commitment to the provisions of that article in the report, the Kuwaiti authorities had not yet adopted specific legislation prohibiting racial discrimination. In that connection, they recalled the mandatory character of such legislation and stressed the importance of legal anti-discriminatory provisions, if only for preventive purposes.

366. In respect of article 5 of the Convention, members asked whether the right to equal access to and treatment before the courts was guaranteed for non-Kuwaitis, taking into account the fact that non-citizens could face expulsion without charge or judicial recourse, whereas no Kuwaiti might be exiled. Information was requested on measures taken to prevent the occurrence of extrajudicial killings, torture and ill-treatment which were reported to have affected certain categories of foreigners after the liberation of Kuwait. Members of the Committee requested further information on the situation of foreign workers in the post-occupation period, and it was asked whether they enjoyed trade union rights. Members of the Committee also wished to know whether the provision of health care, education and training services applied to migrant workers and their families, and whether facilities existed for foreign

students to attend schools in which they could study their mother tongue. Clarification was sought on the exercise of the right to freedom of religion, and the possibility for members of various religious faiths to build their own places of worship.

367. With regard to article 6 of the Convention, additional information was requested on the right of victims to seek adequate reparation or satisfaction for damage suffered as a result of discrimination; on the way in which the right of recourse to the courts was enjoyed by citizens of States with which Kuwait had not concluded bilateral agreements; and how many cases had actually been brought before the judicial authorities and settled by them. It was asked whether the Government of Kuwait had fully exercised its powers to prosecute violations of the provisions of the Convention.

368. As to the provisions of article 7 of the Convention, members of the Committee asked what measures had been taken to ensure their full implementation including, in particular, measures for the training of law enforcement personnel.

369. In his reply, the representative of the State party recalled the provisions of article 29 of the Constitution of Kuwait, concerning equality of rights and obligations, without distinction as to race, origin, language or religion. He pointed out that the situation of foreigners had not changed after the country's liberation; the Kuwaiti State was still endeavouring to protect their status and ensure them a stable life and a decent standard of living. With regard to the expulsion of Bedoons, following the ending of the Iraqi occupation, he stated that large numbers had now returned. The nationals of countries which had collaborated with the Iraqi regime during the occupation of Kuwait, and more particularly Palestinians, had not been subjected to ill-treatment or discrimination. Out of the 400,000 Palestinians on Kuwaiti territory, 250,000 had left during the occupation because of the prejudice they had suffered. The Kuwaiti State had paid the wages of all those who had left, except collaborators, who could be brought before the courts. There were at the present time approximately 50,000 people in Kuwait with a travel document issued by another country that refused to receive them. Those persons were well treated. A National Assembly human rights committee had conducted a study of Palestinians holding travel documents and had sent a recommendation to the authorities for them to be issued with a residence permit, and the Government was in the process of taking the necessary measures. Domestic staff were not ill-treated in Kuwait and any problems that did arise concerned only about 1 per cent of such employees. The State guaranteed them the same rights as any other Kuwaiti citizen, including the right to institute legal proceedings in the event of ill-treatment; in that regard, a court had recently sentenced an employer to seven years' imprisonment for ill-treating a domestic servant. The Government had set up a reception centre for employees fleeing from families for which they worked.

370. As to the question of why a law had not been enacted pursuant to article 4 of the Convention, the representative of the State party pointed out that the Convention formed an integral part of internal legislation and that there were laws against discrimination; furthermore, no one in Kuwait had ever been prosecuted on the grounds of racial discrimination.

371. With regard to any human rights violations committed in Kuwait following the country's liberation, the representative of the State party said that they had occurred during a short period of uncertainty before matters had been taken in hand by the authority of the law. Once it was restored, that authority had made sure that persons brought before the courts benefited from all judicial guarantees and a fair and public hearing. As to the criteria to be applied in

granting Kuwaiti nationality, that question was now being discussed in Parliament, with a view to finding a fair and equitable solution to the problem. Kuwaiti women had access to the highest posts; granting women the right to vote was now under consideration and the authorities ensured the elimination of all discrimination based on sex.

Concluding observations

372. At its 1008th meeting, held on 17 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

373. The Committee welcomed the resumption of the dialogue with the Government of Kuwait. It welcomed the information contained in the report and the additional information presented orally, and appreciated the fact that the report was more detailed and comprehensive than previous ones and followed the general reporting guidelines adopted by the Committee. It regretted, however, that the report did not provide information on the implementation of the Convention in practice and about factors and difficulties that impeded its application.

(b) Positive aspects

374. The Committee noted with interest the important developments taking place in the National Assembly, where issues concerning the status of Bedoons and criteria determining the granting of Kuwaiti nationality were being debated. The Committee also noted the willingness of the Government to continue to provide further information on the implementation of the Convention.

(c) Factors and difficulties impeding the application of the Convention

375. The Committee recognized that, as a consequence of the invasion and occupation of Kuwait by Iraq, the State party had been subjected to serious difficulties which had temporarily affected the full implementation of the provisions of the Convention.

(d) Principal subjects of concern

376. The Committee was particularly concerned about expulsions and other discriminatory measures against especially vulnerable groups of foreigners, including Palestinians, stateless Arabs, Bedoons, Iraqis and nationals of countries which did not participate in the anti-Iraq coalition, and the treatment of foreign domestic servants. The Committee was concerned that no specific measures had been envisaged to eliminate discrimination with respect to descent, national or ethnic origin. In that connection the Committee referred to official discrimination made between two categories of Kuwaiti citizens: those who possessed longstanding Kuwaiti nationality and those who have acquired Kuwaiti nationality in more recent times. Furthermore, the Committee expressed its concern about the lack of penal legislation to implement the provisions of article 4 of the Convention.

377. The Committee was particularly concerned about discriminatory measures leading to the exodus of foreigners in the period following the liberation of Kuwait.

378. The Committee regretted the absence of concrete information in the report of the State party on the implementation of the provisions of articles 2 to 7 of the Convention in practice. The Committee noted, in particular, that no

information was provided in the report on the situation of non-Kuwaitis residing in Kuwait, although they were thought to constitute the majority of the population.

(e) Suggestions and recommendations

379. The Committee recommended that the comments and concerns it had expressed with regard to the consideration of the tenth, eleventh and twelfth periodic reports of Kuwait should be taken into account by the State party.

380. The State party should take steps to guarantee the enjoyment by individuals belonging to vulnerable groups of foreigners, including foreign domestic servants, of the rights enshrined in the Convention without any discrimination; to eliminate discrimination deriving from the dual system of citizenship; to revise the Penal Code in order to introduce specific legislation to implement the provisions of article 4 of the convention in accordance with General Recommendations VIII and XV of the Committee; to guarantee the right of recourse in courts to victims of discrimination; and to implement the provisions of article 7 of the Convention, in particular through adequate training in human rights norms of law enforcement personnel in the light of General Recommendation XIII of the Committee.

381. The State party should include, in its thirteenth report, due in January 1994, concrete information about the demographic composition of the population, including the foreign population, and details about the economic, social and political status of non-Kuwaiti residents. That report would enable the Committee to continue its examination of the situation in Kuwait which warranted close monitoring.

United Kingdom of Great Britain and Northern Ireland

382. The twelfth periodic report of the United Kingdom of Great Britain and Northern Ireland, including the dependent territories (CERD/C/226/Add.4), was considered by the Committee at its 996th to 998th meetings, held on 9 and 10 August 1993 (CERD/C/SR.996-998).

383. The report was introduced by the representative of the State party, who reminded members of the importance which his Government attached to dialogue with the Committee. He said that the situation with regard to racial discrimination in the United Kingdom offered no cause whatsoever for complacency, given the fact that it was easier to change laws than attitudes. The Race Relations Act of 1976 remained the main legislative means for implementing the Convention in the United Kingdom. The Commission for Racial Equality (whose new Chairman was a member of an ethnic minority group) had made 31 recommendations for changing the law, enhancing the powers of the Commission and taking new action to discourage discrimination. Those recommendations were currently under consideration within the Government, which would respond to some of them by the end of the year. The number of complaints concerning discrimination lodged with the industrial tribunals had increased somewhat, which seemed to indicate that the system set up under the 1976 Act was now widely known and increasingly well used.

384. According to data derived from the 1991 census, the first to contain questions about ethnic origin, the number of inhabitants who were members of ethnic minorities was approximately 3 million out of a total population of about 55 million, some 5.5 per cent. Great disparities existed between the various communities.

385. He described two specific measures designed to make the criminal justice system more sensitive to the needs of the ethnic minorities. First, the Criminal Justice Act of 1991 placed an obligation on the Home Secretary to publish annual data designed to facilitate the task of those engaged in the administration of criminal justice, so as to avoid any discrimination; and secondly, an Ethnic Minorities Advisory Committee had been set up in 1991 to provide training on minority issues to all who sat in a judicial capacity. The number of racist attacks was very disquieting; the number of such attacks reported to the police had increased from approximately 4,400 in 1988 to 7,800 in 1992, and estimates based on the British Crime Survey put the real figure for racially motivated crimes at between 130,000 and 140,000 a year. A Racial Attacks Group had been set up and, in 1989 and 1992, had published two reports, which had played an important part in promoting an inter-agency approach and strengthening cooperation between agencies in addressing that difficult issue. There was also a danger of violence between the various minority ethnic communities, aggravated, for example, by reactions to the attack on the Ayodhya mosque in India in 1992. The concentration of ethnic minorities in deprived inner-city areas was a source of concern; the authorities were endeavouring to regenerate those areas, inter alia in the context of the City Challenge initiative launched in 1991, one of whose objectives was to provide training and initiate community projects for the benefit of minorities. There were at present 31 partnership action programmes, on which £37.5 million would be spent over a five-year period. In all, the funds allocated by the Government for those programmes would exceed £1 billion. Inner-city regeneration was the objective of many programmes; thus the Urban Programme budget currently totalled £156 million.

386. On the dependent territories, the representative of the State party said that, with the exception of Hong Kong, on which two reports had been submitted, the eleventh and twelfth periodic reports had been consolidated into a single document, because of an acute shortage of resources and technical expertise in those territories. In connection with the report on the Cayman Islands, in which mention was made of the possibility of amending the Constitution of the territory through the incorporation of a bill of rights, he explained that that reform would be undertaken shortly and that the bill would contain a provision relating to action to combat discrimination. In connection with Hong Kong, where the Hong King Bill of Rights Ordinance had been enacted in 1991, he stated that the text of the Bill of Rights had been incorporated in that Ordinance.

387. The members of the Committee expressed their satisfaction at the copious information submitted by the Government of the United Kingdom in its report, and in the core document submitted in June 1992 (HRI/CORE/1/Add.5), and also welcomed the frank and detailed presentation by the representative of the State party. They noted with satisfaction the Government's serious attitude towards its obligations concerning the submission of reports, and its determination to pursue a fruitful dialogue with the Committee and to give effect to the provisions of the Convention. They nevertheless noted that the report did not fully conform to the guidelines set out by the Committee. They wished to receive more data on various social indicators which could be very useful in showing the extent to which certain minority groups failed to integrate into the community. They wished to know what measures had been taken, apart from the 1991 census, to obtain more precise information on the size, characteristics and distribution of ethnic minority groups, and in what way the ethnic minorities had been consulted on the wording of the question relating to ethnic origin in the 1991 census. They also wished to know whether legislative measures had been taken since 1990 to supplement the Race Relations Act and what further action had been taken by the Government on the recommendations made by the Commission for Racial Equality with a view to improving legislation.

388. As to the situation in Northern Ireland, the information provided in the report was considered too general. The members of the Committee expressed their concern at the fact that the Race Relations Act was not implemented in Northern Ireland and that the Commission for Racial Equality did not have competence there. Information was sought on the ethnic composition of the minorities in Northern Ireland, and further details were requested on travellers and their situation in relation to other ethnic minority groups and on persons of Chinese origin, who had reportedly been victims of acts of racism. Considering that, with regard to Northern Ireland, the Government of the United Kingdom was not fulfilling its obligation to enact legislation prohibiting racial discrimination, the members of the Committee asked whether there was not at least the intention to apply the Race Relations Act of 1976 to that part of the Kingdom. They wished to know what the Government's reaction had been to the publication in 1992 of the document entitled "Racism in Northern Ireland". They requested details on government assistance to the ethnic minority communities in Northern Ireland. They asked what remedies were available to victims of racial discrimination in Northern Ireland, and what measures had been taken to enable all inhabitants, without distinction, to enjoy their fundamental rights. Referring to allegations that Irish people living in the United Kingdom had been victims of acts of racial discrimination, they inquired about measures taken by the Government to combat that phenomenon.

389. In connection with article 2 of the Convention, the members of the Committee wished to know how the various programmes and initiatives to combat racial discrimination would be implemented in practice. Further details were requested on the progress of the crime prevention projects currently under way. Noting that there had been only a small increase in the number of police officers belonging to ethnic minorities, it was asked what measures were envisaged to increase that number. On the question of racist attacks, the number of which was disturbing, more intensive consideration must be given to that phenomenon and more effective measures must be adopted in order to remedy it. In that connection, the members of the Committee wished to know whether the police were genuinely and appropriately implementing the measures and recommendations formulated by the Racial Attacks Group, and whether effective disciplinary measures were being taken against police officers who committed criminal acts. They asked whether police forces received special training in order to be able to prevent racial incidents and whether the general public received appropriate education aimed at changing attitudes and instilling the principles of equality and tolerance. Were special criminal penalties provided for in cases of racial assault, and were not more severe measures deemed to be necessary against those responsible for racist attacks? In view of the international dimension of the problem, it was asked what measures the United Kingdom intended to take in conjunction with other European States in order to combat the increase in racist attacks. Members of the Committee also sought clarification about the situation of overseas domestic servants and measures taken to improve their lot, in view of the fact that a significant proportion of those servants were reportedly subjected to various forms of abuse.

390. In connection with article 3 of the Convention, it was observed that the report of the State party provided no information on implementation of that article and was not in conformity with the Committee's guidelines on that question. Members of the Committee requested information about the status of relations with the regime in South Africa and about measures taken concerning any acts or practices of racial segregation that might have occurred in the territory of the State party.

391. The members of the Committee drew attention to the binding character of article 4 of the Convention and expressed regret that it had not been addressed in the United Kingdom report. They requested further details on the scope of

the legislation enacted in order to implement article 4 (a). They considered that the United Kingdom's statement of interpretation concerning article 4 was liable to jeopardize implementation of article 4 (b) of the Convention. They wished to know whether the Government intended to withdraw that statement of interpretation and to take disciplinary measures against perpetrators of violations of the provisions of article 4 (b), and to modify its policy of tolerance with regard to the British National Party and other pro-Fascist or anti-Semitic political parties or institutions, on which the Committee would also welcome further information.

392. On article 5 of the Convention, members asked whether the United Kingdom envisaged enacting legislation to remedy the particular effects of immigration and nationality regulations on certain nationals who were members of ethnic minorities. In that connection, members of the Committee asked whether it was envisaged to update the Commonwealth Immigration Act, so that all foreigners wishing to settle in the United Kingdom could be treated on an equal footing. They also sought clarification on the issue of polygamous marriage and on the possible restrictions on the right to free choice of spouse resulting from existing immigration rules. They requested more information on the British Nationality (Hong Kong) Act 1990 and the very selective process it established by enabling the authorities to register as British citizens 50,000 "key people". Concerning the question of asylum, clarification was sought on criteria for granting asylum and on reports that some asylum-seekers had been forcibly returned to countries where their safety was at risk. In regard to employment, additional information was requested on recruitment in the private sector. Whereas the 1968 Act had bound the Royal Household not to discriminate racially as an employer, the 1976 Act had for some reason exempted it. Members of the Committee also asked what measures the Government was taking, in addition to social assistance, to remedy the very high rate of unemployment among minority groups. With regard to education, members wished to know in how many schools teaching was provided in the pupil's mother tongue. They also asked whether the right of schools to opt out of control by Local Education Authorities would not increase the risks inherent in a racially segregated system. They inquired how much time was set aside in schools for collective worship of an essentially Christian nature in non-denominational schools and how infant mortality rates compared between ethnic groups. Members also wished to know if there were any political parties in the United Kingdom established on ethnic grounds, how many Members of Parliament were members of ethnic minority groups, and what impact ethnic communities had on parliamentary elections.

393. With reference to article 6 of the Convention, members of the Committee asked whether the Commission for Racial Equality played a part in preparing or reviewing the reports submitted to the Committee. They also wished to have further information on the functioning of the industrial tribunals. More information was requested on cases of racial discrimination brought before United Kingdom courts or before the European Court of Human Rights. Clarification was sought on the implications of the statement of interpretation made by the State party on article 6 concerning reparation and satisfaction. Members of the Committee also asked whether the Government intended to make a declaration under article 14 of the Convention.

394. As to article 7 of the Convention, members of the Committee wished to know which of the measures in connection with the implementation of that article had proved effective and what the role of the Department of Education was in the overall policy to reduce racial attacks. It was asked whether the provisions of the Convention were taught sufficiently, whether the reports submitted to the Committee were published by the Government and whether the Committee's conclusions were divulged.

395. Referring to article 11 of the Convention, members asked whether the United Kingdom was not considering the possibility of bringing to the attention of the Committee, in accordance with the provisions of that article, any cases of racial discrimination in other States parties.

396. Members of the Committee asked whether the United Kingdom was considering withdrawing, or at least reducing to a minimum, its reservations and statements of interpretation with regard to the Convention, concerning articles 4 and 6 in particular. They wished to know why the reservations relating to Rhodesia and Fiji had not yet been withdrawn.

397. Concerning the dependent territories, members of the Committee asked why the Convention had not been incorporated into the domestic legislation of these territories and expressed the view that much remained to be done in order for the State party to fulfil its legal obligations towards those territories under the Convention, including the enactment of legislation to give effect to the provisions of article 4 of the Convention. They inquired whether the Channel Islands and the Isle of Man were territories under the jurisdiction of the United Kingdom and, if so, whether the Convention was applicable in those territories. They wished to know whether problems of racial discrimination had arisen in regard to foreign domestic staff employed in Hong Kong. Noting that in Hong Kong proceedings in the higher courts were conducted in English only, they asked whether the authorities intended to take measures to introduce the use of Chinese as well in these courts. In connection with the territory of Bermuda, members of the Committee inquired whether the recommendations by the Chief Inspector of Prisons in England and Wales concerning the disproportionate criminalization of black youth because of the way in which the police enforced certain rules were being accepted. With regard to the island of Saint Helena, clarification was requested on the "Belongers" living on the island and on the opportunity, in practice, for all races to attend State and private schools.

398. Replying to questions and comments by members of the Committee, the representative of the State party emphasized that there were far fewer flagrant cases of racial discrimination in the United Kingdom now than 15 years ago; that increasing use was being made of the industrial tribunals set up under the 1976 Act, and that the situation of the ethnic communities in the United Kingdom had improved in regard to housing, education and, indeed, employment over the years.

399. According to the 1991 census, 94.5 per cent of the population of the United Kingdom belonged to the white ethnic group. There were approximately 520,000 inhabitants of Indian origin, 490,000 of Pakistan-Bangladesh origin, and 490,000 of Afro-Caribbean origin. The tendency among the ethnic minorities was to live in the large cities, more particularly in the south-east of England. Moreover, there were substantial regional disparities in terms of the distribution of the various ethnic groups. Organizations representing minorities had been consulted on the wording of the question on ethnic groups for the purposes of the 1991 census and, according to statisticians, the replies had been satisfactory. The census questionnaire in Northern Ireland had not contained any question about ethnic groups for it had emerged, in the course of prior consultations, that such information was not required. On the other hand, the questionnaire had included a question about religion.

400. As to the question of legislation on racial discrimination, the representative of the State party said that the Commission for Racial Equality had, in September 1991, submitted recommendations to the Home Office, with a view more particularly to making the legislation on racial discrimination stronger, making incitement to religious hatred an offence, prohibiting any discrimination based on religion and enhancing the efficiency of the judicial

system. The Government had specified the areas that called for further examination and, for that purpose, had set up a working group within the Commission for Racial Equality.

401. As to the questions on the situation of the ethnic minorities in Northern Ireland, the Government accepted the principle of protection for persons in Northern Ireland who suffered from discrimination on the grounds of race. The Government recognized the importance of the question of the travelling people, and the consultative document published by the Secretary of State for Northern Ireland indicated that proposals had been made to consider such persons as belonging to an ethnic group and to take them into account in any bill on racial discrimination in Northern Ireland.

402. Replying to questions about racist attacks, the representative explained that the Government acknowledged the need for more accurate figures. The issue of racist offences was complex and called for more research and more sophisticated methods of inquiry. The House of Commons Subcommittee was now studying the problem. The task of the Racial Attacks Group was to make recommendations and follow up their implementation; it had, in its 1991 report, made recommendations to the police and to local authorities. All police officers received training in community and race relations during their practical training and were then given more advanced courses at Police Staff College. In 1989, the Home Office had set up a department to train teachers in community and race relations. Sections 8 and 9 of the Police Standards of Conduct concerned discriminatory conduct by police officers. The maximum penalty under those two sections was dismissal. In addition, police inspectors made sure that the police applied the Home Office guidelines on equal opportunities for minorities in police service recruitment and career prospects, as well as the recommendations of the Racial Attacks Group.

403. As to the possibility of a new legal framework in regard to racist violence and incitement to racial hatred, the representative of the State party explained that the Commission for Racial Equality had proposed that legislation should be introduced to make racial attacks an offence. The proposal, on which there were some reservations, would be considered by the authorities with a great deal of attention. With reference to the question of international cooperation in the field of racial discrimination, he pointed out that the Council of Europe had adopted a declaration condemning racism and xenophobia, and the United Kingdom had played an active part in the preparation of the declaration.

404. With regard to article 3 of the Convention, the representative drew attention to the United Kingdom's frequently reiterated position, namely, rejection of apartheid in all its forms. He also said that section 18 of the 1976 Race Relations Act could be invoked only when the local education authorities committed an act of discrimination in connection with their duties.

405. With reference to article 4 of the Convention, the representative of the State party drew attention to the United Kingdom's position that existing legislation and particularly the 1986 Public Order Act prohibited and punished activities such as incitement to racial hatred and similar activities in a manner that was consistent with the requirements of article 4, without prejudice to the principles of freedom of expression and association.

406. Concerning the suggestion that the United Kingdom might invoke article 11 in the case of violations by other States parties of rights protected by the Convention, the representative said that his country would continue to bear in mind the rights conferred on it under article 11; the Government of the United Kingdom did not consider making a declaration under article 14 of the Convention, since any petitioners had other means of recourse.

407. As to the reservations entered by the United Kingdom when it had signed and ratified the Convention, more particularly on the subject of Fiji and Rhodesia (now Zimbabwe), there was no need to withdraw them officially, since they had become null and void. Once those territories had become independent, the United Kingdom had ceased to have any rights or obligations towards them under the Convention or any other international human rights instrument.

408. As to dependent territories, some questions called for further examination and he would reply to them as soon as possible.

Concluding observations

409. At its 1009th meeting, held on 18 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

410. The Committee welcomed the detailed information contained in the report and its annexes, as well as the additional information presented orally. The Committee noted with satisfaction the seriousness with which the United Kingdom undertook its reporting obligations. The Committee expressed its thanks to the representatives of the State party for their efforts to reply to many of the questions raised, thus allowing the Committee to have a clearer picture of the overall situation in the State party as to its compliance with the obligations under the Convention. The Committee regretted, however, that the report had not been drawn up in full conformity with the Committee's guidelines for the presentation of State party reports and, in particular, that it did not contain any information on the implementation of articles 3 and 4 of the Convention.

(b) Positive aspects

411. The Committee welcomed the attempts of the United Kingdom Government to improve the standard of protection of its ethnic minorities and to remedy problems which still impeded implementation of the Convention. It noted the steps that had been taken to strengthen and supplement the 1976 Race Relations Act and to increase the effectiveness of the Commission for Racial Equality, as well as the various initiatives designed to promote good race relations and foster safety in urban areas, to increase the recruitment of members of ethnic minorities into the police service and to improve the economic and social conditions of minority groups through various measures in the field of employment and training, housing, social services, health and education. The Committee hoped that those plans would materialize in the near future and expected information thereupon in the next periodic report.

(c) Factors and difficulties impeding the application of the Convention

412. The Committee noted an increase of manifestations of racism and racially motivated attacks directed against members of ethnic minorities in the territory of the State party.

(d) Principal subjects of concern

413. The Committee shared the concern of the State party about the rising number of racial attacks. However, it was of the opinion that not enough had been done to inquire into the causes of such attacks and the manifestations of racist ideas.

414. The Committee regretted the lack of information concerning the implementation of the Convention in Northern Ireland. The Committee was further concerned about the absence of legislation prohibiting discrimination on racial grounds in Northern Ireland and the ensuing lack of adequate protection available to ethnic minorities including, in particular, travellers and persons of Chinese origin.

415. The Committee further noted with regret that the State party continued to fail to provide information on the implementation of article 3 of the Convention.

416. The Committee expressed concern that the State party was not implementing its obligations under article 4 of the Convention, which called for the adoption of specific penal legislation. By not prohibiting the British National Party and other groups and organizations of a racist nature, and by allowing them to pursue their activities, the State party was failing to implement article 4, which called for a condemnation of all organizations attempting to justify or promote racial hatred and discrimination. Additionally, the Committee considered that in the light of the increase in the manifestation of racist ideas and of racially motivated attacks, the restrictive interpretation of article 4 violated the purpose and objective of the Convention and was incompatible with General Recommendation XV of the Committee.

417. The Committee noted with concern that in spite of various measures taken by the authorities the rate of unemployment affecting ethnic minorities remained very high and that the primary purpose rule regarding marriage under the immigration regulations might entail discrimination in effect on grounds of ethnic origin.

418. With regard to the dependent territories, the Committee was concerned that the Convention had not been incorporated in the domestic legislation of those territories and could not be invoked in the courts. In the case of Hong King, in particular, the Committee expressed its concern at the discriminatory provisions of the British Nationality (Hong Kong) Act of 1990 in accordance with which the authorities might register as British citizens only 50,000 "key people".

(e) Suggestions and recommendations

419. The Committee recommended that, in accordance with the proposals made by the Commission for Racial Equality, the State party should take adequate legislative and other measures, to implement better the provisions of the Convention. The State party should, in particular, consider amending the 1976 Race Relations Act. The Committee also recommended that the State party either adopt legislation relating to protection against racial discrimination in Northern Ireland or extend the scope of the Race Relations Act to Northern Ireland.

420. The Committee further recommended that the State party's next periodic report should contain information on the implementation of articles 3 and 4 of the Convention.

421. In addition, the Committee suggested that further effective legislative and other practical measures should be taken with a view to preventing incidents of incitement to racial hatred and racially motivated attacks; that, in particular, the causes of such attacks should be more accurately analysed; that current efforts to encourage the recruitment into the police of members of ethnic minorities be reinforced; and that the activities of organizations of a racist

nature be prohibited and the dissemination of ideas based on racial hatred declared punishable by law.

422. The Committee encouraged the State party to review its interpretative statements and reservations, in particular, those with regard to articles 4 and 6 of the Convention, with a view to withdrawing them.

423. Concerning the dependent territories, the Committee recommended that the Convention should be incorporated into the domestic legislation of those territories.

424. The Committee was of the view that the situation in the United Kingdom should be kept under close scrutiny and expected the thirteenth periodic report to focus on the implementation of the recommendations made in paragraphs 419 to 422.

425. Finally, the Committee recommended that the State party should consider making the declaration under article 14, paragraph 1, of the Convention.

Germany

426. The Committee considered the eleventh and twelfth periodic reports of Germany, submitted in a single document (CERD/C/226/Add.7), at its 999th and 1000th meetings held on 11 August 1993 (see CERD/C/SR.999 and 1000).

427. The reports were introduced by the representative of the State party who pointed out that, following the reunification of Germany in 1990, the reports now applied to Germany as a whole. He also stated that the recent increase in xenophobic violence, which had made the question of combating racism particularly relevant in the past two years, was a source of concern for his Government. In that connection, he provided information on manifestations of violence that had occurred in Germany after the submission of the report in July 1992 and said that the total number of xenophobically motivated crimes had shown a roughly twofold increase over 1992 and the brutality of the attacks had also increased. Most of the crimes were spontaneous, often imitative and perpetrated by juveniles and young adults. The causes of the violence had been described in the report. Such violent acts were denounced by the German authorities, by broad movements of protest and by the mass media and they did not reflect the attitude of the population as a whole, as shown by recent surveys. State bodies were making every effort to prevent further violent acts and to bring the full force of the law to bear against those who took part in xenophobic violence. Rapid investigation of such attacks, prompt sentencing and measures taken by the Federal Ministry of the Interior at the end of 1992 had served as a deterrent to potential offenders. Three right-wing extremist associations had been banned, some right-wing extremists had been prosecuted and the Federal Länder (States) were empowered to prohibit extremist associations in their territory.

428. The representative further stated that German criminal law focused on the educating of young principal offenders, the aim being to prevent commission of further offences. In general, there were indications that the measures already taken by the authorities against right-wing extremists were having effect. The police also had a special role to play in combating xenophobic activities. With regard to the accusation that police in the new Länder had not been present, or had arrived too late, to protect foreigners affected by violence, as had been the case in Rostock and Eberswalde, public prosecution offices had already begun preliminary investigations. Education was of special importance in the fight against xenophobia, since xenophobia was due not only to social problems, but also to lack of knowledge and inability to cope with democracy and to make

compromises. Various educational measures had been taken by the German authorities in that respect and a Committee of State Secretaries had been established to coordinate an offensive against violence and xenophobia. The fight against racism was a special duty which the Government of Germany was endeavouring to fulfil.

429. The Committee commended the State party on the high quality of its report, drawn up in accordance with the Committee's guidelines for the presentation of State party reports (CERD/C/70/Rev.3) and particularly welcomed the frank and informative introductory statement made by the representative of Germany.

430. Members of the Committee noted from the report that Germany held the view that it had no legal obligation under the Convention to report on legislation concerning foreigners even though it had provided such information, and they recalled that such an obligation was clearly stated in the Committee's General Recommendation XI, adopted in March 1993. They also asked why the report provided information on protection of minorities and other groups under article 2 of the Convention and dealt with issues concerning foreigners under article 5 of the Convention, thus giving the impression that only that article, and not the Convention as a whole, was relevant. In addition, they were surprised that Germany had not yet made the declaration under article 14, paragraph 1, of the Convention, particularly in view of its repeated pleas in international forums that human rights mechanisms should be strengthened. Members of the Committee further asked how the Federal Government of Germany was fulfilling its responsibility of ensuring that the Convention was implemented in all Länder.

431. With reference to article 2 of the Convention, members of the Committee wished to receive clarification as to the implementation of the repatriation and reintegration scheme for Sinti and Romany asylum-seekers whose applications had been rejected, as well as information on the treaties concluded between Germany and Romania and between Germany and Bulgaria in 1992 to speed up the deportation of persons, many of them gypsies, whose asylum applications had been rejected. They also wished to know whether Sinti and Romany living in Germany who had been persecuted during the Second World War actually received adequate information about how to obtain compensation. In addition, members of the Committee noted from the report that the Sinti, the Romany gypsies and the Jews had been recognized as "racially persecuted groups" and asked why other groups living in Germany, such as Turks, Poles, Czechs or persons from the former Yugoslavia, were not featured as ethnic groups or minorities; whether political parties with an ethnic basis were allowed in Germany; and what the status was of the Foundation for the Sorbian People. Members of the Committee observed that the report appeared to imply that Germany provided different levels of protection for different minority groups and asked for clarification with regard to the political representation of Sorbs and gypsies in elective bodies, the cultural protection of the Sinti and the legal protection of gypsies without nationality. They also wished to know to what extent the 6 million foreigners, many of whom had been resident in Germany for a long time, had been integrated.

432. Turning to article 4 of the Convention, members of the Committee took note with satisfaction of legal and other measures taken in Germany to implement the provisions of that article. They observed, however, that in view of the serious nature of manifestations of racism and racial discrimination which were not always effectively dealt with, Germany should consider enacting a comprehensive anti-discrimination law, including penal provisions for discriminatory acts directed against foreigners in the private sector, and adopting a more comprehensive policy to combat racism and racial discrimination. In addition, members of the Committee wished to receive more information on the substantive changes envisaged in German criminal law and procedure in order to combat

extremist and xenophobic activities more effectively; on the reasons why racist groups were developing in the country and why police action was said to be less effective in the eastern than in the western part of Germany. More information was also requested on the powers granted to the Committee of State Secretaries.

433. With reference to article 5 of the Convention, members of the Committee wished to know what was being done by the German authorities to strengthen the preventive and protective role of the police, particularly in parts of the country with a high proportion of foreigners and asylum-seekers; to facilitate complaints procedures; and to provide adequate training in the field of human rights for law enforcement officials. They also wondered whether a more generous policy regarding the granting to foreigners of dual nationality and the right to vote and to stand for election at local level would not assist the German authorities in their efforts to promote integration of foreigners in the country. In addition, more information was requested about the asylum law adopted in July 1993, which appeared to be more restrictive than the one previously in force, and on the treatment of young persons of foreign nationality with a criminal record under the new Aliens Act. It was further asked to what extent the cultural identity of foreign workers of Kurdish origin was taken into account in the integration process; what measures the Government of Germany intended to adopt to eliminate discrimination and provide equal opportunities for all employees regardless of race and national background; what was being done to protect the employment of Turkish workers resident in the country; what the conditions were for the naturalization of foreigners; and what the precise content was of the laws facilitating the process of naturalization. In addition, questions were raised with regard to measures taken by the German authorities to prohibit and punish extremist violence and racial discrimination in the armed forces, as well as to guarantee, without distinction, the right of everyone to freedom of religion, to housing, health and education.

434. With regard to article 6 of the Convention, information was requested on a new law which had been recently enacted to provide compensation for foreigners who had been victims of racist practices, and on whether plans existed in Germany to strengthen the position and functions of the Ombudsmen for foreigners. It was also asked whether the Ombudsmen were competent to receive individual communications or complaints, or, if not, whether such a measure was envisaged; how many offences committed against foreigners, which had been brought to the attention of the Committee, were racially motivated; what penalties other than prison sentences were envisaged for young offenders committing racist acts and what remedies were available, in particular, to victims of racial discrimination in housing and in employment in the private sector.

435. In connection with article 7 of the Convention, members of the Committee wished to know whether any effort was made to re-educate young adults or adolescents imprisoned for having committed racist acts and, in particular, acts of an anti-semitic nature, and whether their behaviour was monitored after they had been released. It was also asked what initiatives had been taken in the field of education to combat effectively xenophobia and what the Government of Germany was doing to create a greater awareness of the Convention and, in general, to adopt measures to implement article 7 of the Convention.

436. In his reply, the representative of Germany, referring to the general questions raised by members of the Committee, said that the German authorities were open to dialogue in regard to the obligation to report on legislation concerning foreigners and acceptance of the provisions of article 14 of the Convention. He further stated that all public bodies in Germany, whether at the Federal or Länder level, were bound by the provisions of the Convention and cooperated in their implementation. With regard to the separate treatment of

the questions concerning certain minorities in the report, that was a matter of presentation of information without any implications for substantive issues.

437. With regard to article 2 of the Convention, the representative gave details of the schemes for repatriating Romany gypsies to countries neighbouring on Germany and explained that educational and training institutions had been established in the countries of repatriation in order to enable those concerned better to integrate in economic life. He also stated that gypsies were entitled to compensation for the racial persecution which they, like the Jews, had suffered under the Hitler regime but that the gypsies had been slow in claiming compensation because of a lack of adequate organization. The groups concerned could obtain legal advice. The representative also indicated that Turks residing in Germany had either acquired German nationality and benefited from the same rights as other German citizens or were still foreigners but did not constitute a national minority.

438. With regard to article 4 of the Convention, the representative stated that the German authorities were in the process of considering whether amendments were needed to domestic legislation or whether other measures should be taken in order to combat racial discrimination effectively. As for the offence of xenophobia, the authorities considered that the existing system was adequate to combat that problem and that it was a matter of implementing the legislation in force. The body composed of State secretaries of the various departments concerned ensured coordination of activities and considered the action that should be taken. The representative went on to say that a ban on far-right organizations could only be envisaged in each particular case and when all the conditions for such prohibition were met, freedom of association being protected by the German Constitution. A ban on extremist parties could only be imposed by the Constitutional Court.

439. With regard to article 5 of the Convention, the representative, referring to the role of the police in guaranteeing the right to security of person and to the protection of the State, observed that some difficulties concerning police training in the new Länder had been experienced following the reunification of Germany, but that a series of measures had been taken to improve the situation. In general, the German police gave additional protection to asylum-seekers and groups suspected of engaging in violence against them came under stricter surveillance. At the political level, the Parliament of each Land had established a special committee to investigate incidents linked to xenophobia. As for the integration of foreigners, the representative referred to a whole series of measures ranging from schooling to vocational training programmes and special language courses for young foreigners. He explained that the aim of integration was not total assimilation, but a cultural exchange and a process of enrichment for all, and that since the 1980s Germany had refrained from the enforced repatriation of foreigners. The representative also stated that German law now facilitated the acquisition of German nationality by young people who had grown up in Germany and persons who had been resident in the country for more than 10 years, but it seemed that the possibility of naturalization had not been exercised to any great extent. The question of dual nationality was currently the subject of a lively debate in Germany. The representative outlined the new German legislation concerning asylum-seekers and the difficulties experienced in applying it; he stated that expulsion or enforced repatriation of persons born in Germany was extremely rare and that the proportion of asylum requests accepted was currently very low. He then informed the Committee about the provisions of labour law affording protection against discrimination in the recruitment of foreign workers; the Council of Workers and Employers had to act in unison on that matter. With regard to rented accommodation, on the other hand, a property owner could refuse to sign a lease with a particular person. As for acts of xenophobia perpetrated by members of

the armed forces, a report published in October 1992 had assessed the scope of that problem. In addition, any act of xenophobia was punishable by disciplinary measures or under the Penal Code.

440. With regard to article 6 of the Convention, the representative stated that, following recent xenophobic attacks in Germany, provision for compensation to victims of violence had been extended to asylum-seekers and tourists. As for the Ombudsmen for foreigners, it was important that they should be completely independent, far removed from any political ties that might restrict their freedom of manoeuvre. They participated in all discussions concerning legislation and regulations, expressing the view of the foreign population.

441. Concerning article 7 of the Convention, the representative stated that there were many measures in Germany to provide education and training for young detainees. Such measures could be imposed by the court when passing sentence.

Concluding observations

442. At its 1009th meeting, held on 18 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

443. The Committee commended the State party on the high quality of its report, drawn up in accordance with the Committee's guidelines for the preparation of State party reports (CERD/C/70/Rev.3). The comprehensive information provided in the report, the frank and constructive approach taken by the representatives of the reporting State in their dialogue with the Committee and the additional information they provided with regard to recent developments relating to the implementation of the Convention in Germany showed the seriousness of the Government of Germany in cooperating with the Committee and its commitment to the international obligations it has assumed under the Convention.

(b) Positive aspects

444. The Committee welcomed the efforts of the German authorities to fight against xenophobia and racial discrimination, in compliance with its obligations under the Convention. In that connection, the Committee welcomed legal and other measures taken by the German authorities to give effect to the provisions of article 4 of the Convention. The Committee noted that the Government had the necessary will to cope with the problem of racial hatred. The Committee also noted with appreciation that in many German cities large popular demonstrations had been held against recent expressions of racist violence and xenophobia.

(c) Principal subjects of concern

445. The Committee expressed serious concern at the manifestations of xenophobia, anti-semitism, racial discrimination and racial violence that had recently occurred in Germany. In spite of the Government's efforts to counteract and to prevent them, it appeared that those manifestations were increasing and that the German police system had in many instances failed to provide effective protection to victims and potential victims of xenophobia and racial discrimination, as required by the Convention. The Committee particularly held that all those who carried out functions in public and political life should in no way encourage sentiments of racism and xenophobia.

(d) Suggestions and recommendations

446. In view of the serious nature of the manifestations of xenophobia, racism and racial discrimination in Germany, the Committee recommended that practical measures should be strengthened with a view to preventing such manifestations, particularly acts of violence on an ethnic basis, and to punishing those who committed them. Measures should be taken, in that regard, against the organizations and groups involved.

447. At the same time, taking into account that practices of racial discrimination in such areas as access to employment, housing and other rights referred to in article 5 (f) of the Convention are not always effectively dealt with, the German authorities should give serious consideration to the enactment of a comprehensive anti-discrimination law. Such a law would constitute a clear reaffirmation by the Germany authorities that racial discrimination was absolutely unacceptable, detrimental to human rights and human dignity. Other preventive measures, such as information campaigns, educational programmes and training programmes addressed particularly to law enforcement officials, in accordance with article 7 of the Convention and General Recommendation XIII of the Committee, would strengthen the effectiveness of legal provisions.

448. The Committee was also of the view that the Government should guarantee equal protection to all minority groups living in Germany. In addition, the Government should consider reviewing certain restrictive provisions recently adopted with regard to asylum-seekers, to ensure that they did not result in any discrimination in effect on grounds of ethnic origin.

449. While commending the Government of Germany for taking measures to prohibit extremist organizations disseminating ideas based on racial superiority or hatred, the Committee was of the view that appropriate measures should also be strictly applied against such organizations and especially against persons and groups who were implicated in racially motivated crimes.

450. In accordance with its General Recommendation XI, the Committee appealed to the Government of Germany to continue reporting fully upon legislation on foreigners and its implementation.

451. The Committee further invited Germany, taking into account statements to that effect by the World Conference on Human Rights, to make the declaration under article 14 of the Convention recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation of any of the rights set forth in the Convention.

452. The Committee was of the view that the situation in Germany should be kept under close scrutiny and expected Germany, in its thirteenth periodic report, to inform the Committee on further measures taken in compliance with the Convention and pursuant to recommendations and suggestions put forward in connection with the examination of the eleventh and twelfth reports.

Bosnia and Herzegovina

453. At its 984th meeting, held on 19 March 1993, the Committee expressed grave concern over the ongoing ethnic conflict taking place in the territory of the former Yugoslavia and requested the Government of Bosnia and Herzegovina to confirm its adherence to the Convention and, in the event, to submit, in accordance with article 9, paragraph 1, of the Convention, further information on the implementation of the Convention not later than 31 July 1993. The Government of Bosnia and Herzegovina subsequently deposited with the

Secretary-General its instrument of succession to the Convention and submitted a report (CERD/C/247) which was considered by the Committee at its 1001st meeting held on 12 August 1993 (see CERD/C/SR.1001).

454. Members of the Committee expressed regret at the absence of the representative of Bosnia and Herzegovina who had informed the Committee of his inability to be present owing to prior commitments in connection with the peace talks taking place on the former Yugoslavia.

455. They noted that the disintegration of the former Yugoslavia had taken place since the Committee had considered that country's report in 1990. With regard to "ethnic cleansing", it was stated that although all parties to the conflict had been responsible for abuses, most of the victims had been Muslim. Violations included massacres, detention of civilians, torture and killing of prisoners and rape and other sexual abuses.

456. Members of the Committee drew attention to the conclusions contained in the report of the Special Rapporteur of the Commission on Human Rights (E/CN.4/1994/3, paras. 90-93), particularly in regard to the grave humanitarian crisis existing in eastern Bosnia and Herzegovina and on the need to establish "safe areas" there.

457. Members of the Committee also stressed that human rights concerns should be given priority in the peace process; that all detainees should be released immediately into conditions of safety; that blockades of cities and enclaves be ended immediately and humanitarian relief corridors opened; that the "safe areas" concept be expanded and applied to other areas of Bosnia and Herzegovina; and that the right to flight and the right to seek asylum should be guaranteed.

458. It was recommended that the new Constitution should incorporate the relevant articles of the Convention, particularly the definition of racial discrimination contained in article 1, since grave violations had clearly occurred. The Government could be requested to give the demographic composition of the population before and after the conflict. Further, attention should be drawn to all aspects of articles 2 and 3, stressing that parties should eradicate all practices of racial segregation in territories under their jurisdiction. Replies should be given in relation to articles 5 and 7, all of the provisions of which had been violated.

459. In the context of ethnic cleansing, members of the Committee stated that article 4 had to be reflected in the Penal Code and that the Civil Code should cover article 6, particularly with regard to war crimes and compensation for victims of ethnic cleansing.

460. It was pointed out that racial discrimination was at the root of the tragic situation in Bosnia and Herzegovina and, in particular, that the provisions of articles 3 and 5 of the Convention were being flouted there. Since the Committee had the task of monitoring the implementation of the Convention, it had a duty to make a clear statement of principle deploring the violations of rights enshrined in the Convention.

461. Members noted that the current situation in the territory of the former Yugoslavia served as a lesson that racial discrimination and ethnic conflict, if not controlled at an early stage, could easily get out of control, escalate into armed conflict and result in a change in human attitudes which ran counter to the Convention and other human rights instruments. It was recommended therefore that, in view of deepening racism and racial discrimination in the world, the Committee should reserve time at each session to consider potentially dangerous

situations under a separate agenda item. That would enable the Committee to function more effectively in an early warning and urgent action role.

462. It was pointed out that the International Tribunal which was being established pursuant to Security Council resolution 808 (1993) would play a vital role in prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia and that States should be urged to cooperate with it.

463. Several members of the Committee stated that the subject of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) must be kept on the agenda of the Committee as part of an in-depth study of the situation in the former Yugoslavia.

Concluding observations

464. At its 1012th meeting, held on 20 August 1993, the Committee adopted the following concluding observations. 5/

(a) Introduction

465. The Committee noted the report submitted by the State party but regretted that a representative was unable to present that report and to respond to the questions of the Committee.

(b) Positive aspects

466. The Committee welcomed the recent deposit with the Secretary-General of the instrument of succession of Bosnia and Herzegovina to the Convention.

(c) Principal subjects of concern

467. The Committee was gravely concerned about the massive, gross and systematic human rights violations occurring in the territory of Bosnia and Herzegovina, as well as practices of "ethnic cleansing", including forced population transfers, torture, rape, summary executions, the blockading of international humanitarian aid and the commission of atrocities for the purpose of instilling terror among the civilian population. The Committee deplored the lack of effective action to bring to an end those and other human rights violations in Bosnia and Herzegovina.

468. The Committee was profoundly concerned that the human rights violations occurring in Bosnia and Herzegovina were being committed on the basis of "ethnic identity" for the purpose of attempting to create ethnically pure States. The Committee emphasized that such attempts were completely contrary to the spirit and the principles of the Convention. Furthermore, the Committee was concerned that partition along ethnic lines in Bosnia and Herzegovina could encourage groups elsewhere who were unwilling to respect the territorial integrity of States.

(d) Suggestions and recommendations

469. The Committee strongly supported the principle of multi-ethnic societies and States and, to that end, recommended that active and effective measures should be urgently taken in support of efforts to promote inter-ethnic tolerance and understanding in Bosnia and Herzegovina and to end ethnic divisions there. To that end, multi-ethnic organizations and movements should be encouraged and an ongoing dialogue should be fostered on an urgent basis among leaders and

representatives of the various communities with a view to reducing tension, building confidence and ending the conflict.

470. The Committee urged the Government of Bosnia and Herzegovina and all parties concerned to take all measures at their disposal to bring to an end the massive, gross and systematic human rights violations occurring in the territory of Bosnia and Herzegovina. In that connection, the Committee strongly recommended that effective action should be taken to ensure that refugees and other displaced persons were allowed to return to their homes, all detainees were released immediately into conditions of safety and adequate reparation was given to the victims.

471. The Committee reaffirmed that those responsible for massive, gross and systematic human rights violations and crimes against international humanitarian law should be held responsible and prosecuted. In that connection, the Committee urged the Government of Bosnia and Herzegovina to assist efforts to arrest, bring to trial and punish all those responsible for crimes which would be covered by the terms of reference of the International Tribunal established pursuant to Security Council resolution 808 (1993).

(e) Further action

472. The Committee offered its technical assistance to the State party in the form of a mission of one or more of its members for the purpose of promoting the elimination of all forms of racial discrimination and of preparing the next report.

473. In accordance with article 9, paragraph 1, of the Convention, the Committee requested further information from the State party on measures taken to implement the provisions of the Convention, particularly in the light of the above suggestions and recommendations. The State party was requested to provide that information by 1 January 1994 so that it might be considered by the Committee at its forty-fourth session.

Croatia

474. At its 984th meeting, held on 19 March 1993, the Committee expressed its grave concern over the ongoing ethnic conflict taking place in the territory of the former Yugoslavia and requested the Government of Croatia and other successor Governments of the former Yugoslavia, in accordance with article 9, paragraph 1, of the Convention, to submit further information on the implementation of the Convention, to be submitted not later than 31 July 1993.

475. The report (CERD/C/249) submitted by the Government of Croatia pursuant to the aforementioned decision was considered by the Committee at its 1002nd meeting, held on 12 August 1993 (see CERD/C/SR.1002).

476. The report was introduced by the representative of the State party, who said that the 1990 Constitution contained a number of articles dealing with human rights. Discrimination on the basis of race, colour, religion or national origin had been strictly prohibited. Additionally, the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities had been adopted in 1991 and amended in April 1992. Reforms in municipal law were under way and a special status for those areas having an ethnic Serbian majority had been proclaimed.

477. At the international level, Croatia had succeeded to all of the international human rights instruments to which the former Yugoslavia had been a party. The date of entry into force for those instruments had been

1 October 1991, the date of independence, so as not to interrupt the coverage afforded by the provisions of those instruments. The Government was also planning to ratify the Optional Protocol to the International Covenant on Civil and Political Rights. Additionally, a number of bilateral agreements had been concluded with neighbouring States concerning the protection of minorities.

478. The representative stated that Croatia had cooperated with the Special Rapporteur of the Commission on Human Rights concerning the situation of human rights in the territory of the former Yugoslavia and had furnished him with the information which had been requested. Croatia also intended to cooperate with the war crimes tribunal which was to be established pursuant to the decision of the Security Council.

479. The representative pointed out that the Government was not in control of about a quarter of its territory and that it could not ensure the implementation of the Convention in those areas. In that connection, the Government had tried to negotiate with the rebellious forces and, to that end, had promulgated an amnesty law in October 1992 which exempted from prosecution all those who had fought on the side of the Serbian forces. Those who had committed grave breaches of international humanitarian law, however, would not be exempted but would be subject to possible prosecution by the war crimes tribunal.

480. Members of the Committee noted with satisfaction that the report submitted pursuant to the Committee's request for information was comprehensive and contained much useful information on the legal framework for the protection of ethnic and national minority communities in Croatia. Members noted, however, that further information was required on the actual application of the relevant laws and the extent to which the minority communities in the country enjoyed the protections afforded by the Convention.

481. With respect to article 2 of the Convention, members of the Committee wished to know whether measures which had been taken to protect human rights and fundamental freedoms had benefited members of all minorities or only certain groups; whether article 14 of the Constitution, which prohibited racial discrimination, applied only to citizens of Croatia; what the legal difference was concerning the terms "minorities", "peoples", "nations" and "communities" as referred to in article 15 of the Constitution; what the achievements had been of the Office for Inter-Ethnic Relations and the Council of representatives of ethnic and national communities or minorities; and what steps were being taken to protect those whose names appeared in "ethnic lists" of persons considered to be of non-Croatian origin. Information was further requested on the reported assassination or expulsion of ethnic Hungarians living in the Baranja area.

482. With respect to article 4 of the Convention, members wished to know what steps had been taken to implement the provisions of that article, particularly those provisions prohibiting racist activities and racist propaganda; what measures had been taken to prohibit the activities of ultra-nationalist organizations; and whether the wearing or display of Nazi insignia had been prohibited, particularly in regard to its reported use by elements of the Croatian army.

483. With respect to non-discrimination in the enjoyment of the rights referred to in article 5 of the Convention, members of the Committee wished to know what the precise criteria were for the granting of citizenship; what steps had been taken to avoid delays in the processing of applications for citizenship, particularly in order to protect applicants from losing their social and educational benefits; whether the guarantees for fundamental rights contained in article 35 of the Constitution applied only to citizens; and what steps had been taken to ensure that ethnic Serbs could effectively participate in elections.

484. Members expressed deep concern over reports of illegal or arbitrary detention, disappearances, torture, deaths in custody and other abuses by Croatian forces and wished to know if those allegations had been investigated and whether those responsible had been prosecuted. In that connection, members asked what had been done to return to their rightful owners homes and businesses which had been confiscated by armed bands; what measures had been taken to protect the rights and security of non-Croatians wishing to return; whether allegations had been investigated concerning secret prisons run by private groups where non-Croatians were subject to detention and torture; whether persons of non-Croatian origin had been taken into custody for the purpose of exchanging them for Croatians held by rebellious forces; and what steps had been taken or foreseen to bring to justice Croatians who had been responsible for serious or massive human rights violations and the commission of war crimes. Members also requested further information on the implementation of the amnesty law of October 1992 and how its application would affect cooperation with the war crimes tribunal to be established in accordance with the decision of the Security Council.

485. With respect to article 6 of the Convention, members of the Committee wished to know what steps had been taken to ensure equal treatment by the tribunals regardless of ethnic or national background and what had been done to ensure that the crime of rebellion against the State was not being used in a discriminatory way.

486. Members expressed satisfaction that Croatia had accepted a large number of Bosnian refugees en route to other countries. In that connection, members asked what had been done to expedite the processing of their applications and to prevent the refoulement of refugees fleeing the conflict in neighbouring countries. Members also wished to know what measures had been taken to prevent the participation of Croatian nationals in the armed conflict in Bosnia and Herzegovina.

487. The representative welcomed the establishment of an ongoing dialogue with the Committee and, in that connection, invited the Committee to send one of its members to Croatia in order to clarify its concerns to the Government and to assist it in adapting its legislation and policies to the requirements of the Convention.

488. Responding to the questions, the representative of the State party stated that references to "certain" minority communities in basic legal documents were to denote the special status accorded to some groups in addition to the non-discrimination in the enjoyment of human rights which was accorded equally to all ethnic and national minorities. The representative noted that owing to the armed conflict in some parts of the country, compliance with all of the provisions protecting minorities had been slow in some cases.

489. With respect to reports of an "ethnic list", such a list did, in fact, exist. That list, which had been drawn up by private persons, had been condemned by the authorities and those found responsible for it had been prosecuted. Responding to allegations of summary or arbitrary executions, the representative stated that some reports in that regard had not been correct and the alleged victims had later been found living elsewhere in the country.

490. The representative stated that successive waves of refugees had overburdened the capacity of medical and other basic facilities to provide adequate services. The representative strongly denied that Croatia had violated the principle of non-refoulement. In that connection, the representative pointed out that Croatia had been one of the first States to recognize Bosnia

and Herzegovina and stated that the authorities did not endanger the lives of those fleeing to Croatia.

491. The representative emphasized that the Government strongly condemned the use of Nazi emblems, which evoked memories of a fascist past. The Government was fully cognizant that peace was needed in order to start the economy and resume normal life. To that end, dialogue had begun at a number of levels between the various communities. The authorities were careful to avoid incitement to nationalistic fervour. The representative reiterated that Croatia was committed to trying those responsible for war crimes, whether in the national courts or in the war crimes tribunal which was to be established. In that connection, there was no encouragement, or cooperation with, ethnic Croatian forces operating outside the borders.

Concluding observations

492. At its 1010th meeting, held on 19 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

493. The Committee noted the report of the State party and the additional information provided orally by the delegation. Although the report was comprehensive, it focused mainly on the legal framework for the protection of the rights of the minority communities and did not contain sufficient information on the implementation of those laws or on the extent to which minority communities actually enjoyed the rights guaranteed under the Convention.

(b) Positive aspects

494. The Committee noted the efforts of the Government to incorporate the Convention into domestic law and that in cases of conflict between its provisions and those of domestic legislation the Convention would prevail. The Committee welcomed the announcement that the Government intended to adhere to the Optional Protocol to the International Covenant on Civil and Political Rights. The Committee also noted information that the Government might consider making a declaration under article 14 of the Convention.

495. The Committee expressed its satisfaction at the promulgation of the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities. The Committee noted that effective implementation of that progressive legislation could play a crucial role in establishing the foundation for mutual respect and cooperation among the various ethnic and national communities.

(c) Principal subjects of concern

496. The Committee noted with concern the general lack of clarity in a number of basic legal provisions guaranteeing non-discrimination in the enjoyment of human rights and fundamental freedoms for members of the minority communities. In some cases, guarantees would appear to apply only to citizens of Croatia; in other cases, it was not clear whether the rights of all ethnic and national groups were equally protected.

497. The Committee expressed concern over problems relating to statelessness and noted that delays in the processing of applications for citizenship had led to interruption in the provision of educational and social benefits for members o the minority communities.

498. The Committee was concerned about the practice of illegal and arbitrary detention, disappearance, torture, deaths in custody and other human rights abuses by Croatian armed and paramilitary forces. The Committee was also concerned about reports of prisons run by private groups who took non-ethnic Croatians into custody for the purpose of exchanging them for ethnic Croatians held by other forces.

499. The Committee expressed concern over the circulation in Croatia of ethnic lists of persons considered non-Croatian in origin, which were used for discriminatory purposes, particularly concerning employment opportunities. The Committee was also deeply concerned over the reported use of Nazi insignia, in particular by elements of the Croatian army.

500. The Committee was concerned about the actual implementation of recent laws adopted to ensure non-discrimination in the enjoyment of human rights and fundamental freedoms by minorities in Croatia. Effective policies and implementing mechanisms for existing constitutional and legal guarantees would be of decisive importance in efforts to restore inter-ethnic tolerance and harmony.

501. The Committee was informed by the State party that it was unable to implement the Convention in part of its territory where the dominant group did not recognize its authority.

502. The Committee noted with great concern that links existed between Croatia and Croatian militias and paramilitary groups responsible for massive, gross and systematic violations of human rights in Bosnia and Herzegovina in territories controlled by Croats.

503. The Committee was also concerned that Croats in Bosnia and Herzegovina were hindering the attempts of the Government of that State to implement the Convention.

(d) Suggestions and recommendations

504. The Committee recommended that the application of existing laws and regulations aimed at protecting the rights of non-ethnic Croatians should be closely monitored and that mechanisms concerned with their implementation should be strengthened. In that connection, continuous monitoring of the actual situation pertaining to minority communities would be necessary in order to measure the success of government policies and to indicate where changes, including affirmative action, should be considered in regard to minority groups which were particularly vulnerable or disadvantaged.

505. The Committee emphasized the obligation of the State party, under article 4 of the Convention, to condemn racist activities, organizations and propaganda and to make such offences punishable by law. Given the sensitive situation prevailing not only in the country but also in the region, condemnation, prohibition and prosecution should also extend to ultra-nationalist and extremist activities on ethnic grounds, such as the circulation of ethnic lists and the display of Nazi emblems or the holding of non-ethnic Croatians in secret prisons. At the same time, active and visible measures should be taken by authorities at all levels to promote inter-ethnic tolerance and understanding among the general public. To that end, the Government should encourage multi-ethnic organizations and movements and foster an ongoing dialogue among leaders and representatives of the various communities to ensure respect for the observance of human rights and the rights of the minority communities and their participation in the democratic process. The Committee by no means encouraged trends for separation or secession.

506. The Committee urged the Government of Croatia to undertake all measures at its disposal with a view to bringing to an end the massive, gross and systematic human rights violations occurring in those areas of Bosnia and Herzegovina controlled by Croats. The Committee also urged the State party to assist efforts to arrest, bring to trial and punish all those responsible for crimes which would be covered by the terms of reference of the International Tribunal established pursuant to Security Council resolution 808 (1993).

(e) Further action

507. The Committee, taking into account the invitation extended to it by the representative to send one of its members to Croatia, requested the State party to confirm to the Secretary-General by 1 October 1993 if it wished to accept that a mission be undertaken by the country rapporteur under the advisory services and technical assistance programme of the Centre for Human Rights to assist the Government in reporting on the implementation of the Convention.

508. In accordance with article 9, paragraph 1, of the Convention, the Committee requested further information from the State party on measures taken to implement the provisions of the Convention, particularly in view of the concluding observations adopted by the Committee at its forty-third session. The State party was requested to provide that information by 1 January 1994 so that it might be considered by the Committee at its forty-fourth session.

Federal Republic of Yugoslavia (Serbia and Montenegro)

509. At its 984th meeting, held on 19 March 1993, the Committee expressed its grave concern over the ongoing ethnic conflict taking place in the territory of the former Yugoslavia and requested the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), as well as other successor Governments, in accordance with article 9, paragraph 1, of the Convention, to submit further information on the implementation of the Convention, not later than 31 July 1993.

510. The report (CERD/C/248) submitted by the Federal Republic of Yugoslavia (Serbia and Montenegro) pursuant to the aforementioned decision was considered by the Committee at its 1003rd, 1004th, 1005th and 1006th meetings, held on 13 and 16 August 1993 (see CERD/C/SR.1003-1006).

511. The report was introduced by the representative of the State party, who said that disrespect for and denial of the right to self-determination to all peoples in the territory of the former Yugoslavia had led to the tragic conflict there with its resulting destruction, ethnic cleansing, mass exoduses and population displacements.

512. The representative stated that the crisis had been compounded by international interference and, in particular, the imposition of sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) which had led to a collective condemnation of a people and which was contrary to the spirit of the International Convention on the Elimination of All Forms of Racial Discrimination. Those sanctions threatened not only the rights of the citizens of the Federal Republic of Yugoslavia (Serbia and Montenegro) but also those of the more than 600,000 refugees who had fled to the country regardless of their national or religious background. The resulting political, economic and social climate had eroded public security and the rule of law and had strengthened extremist forces pressing for intolerance and prejudice.

513. With respect to national minorities in the Federal Republic of Yugoslavia (Serbia and Montenegro), the representative stated that the legal system

guaranteed minorities even greater rights than those provided for in international norms, including those agreed upon by the Conference on Security and Cooperation in Europe (CSCE). Additionally, work on the Federal Law on Minorities was in its final phase and would provide a further guarantee concerning the rights of members of minorities both as individuals and as a collectivity.

514. The representative stated that the issue of minority rights in the Federal Republic of Yugoslavia (Serbia and Montenegro) had been politicized and abused. In that connection, the Albanian national minority in Kosmet (Kosovo) and Metohija had clearly secessionist objectives and had tried to promote the "Kosovo Republic" idea in the Working Group on Ethnic and National Minorities of the International Conference on the Former Yugoslavia. That was being done despite the fact that constitutional provisions guaranteed Kosmet territorial and cultural autonomy, as well as the right to regulate questions in the fields of development, health, social protection and culture, including the use of the national minority language. Unfortunately, members of the Albanian national minority had almost completely boycotted school curricula in their own language. Similarly, there had been a decrease in the number of Albanians in the judiciary, police force and health institutions, which was due not to discrimination or expulsion from work but to their refusal to recognize the legitimate authorities of the State.

515. The situation in Vojvodina and Sandzak had also been politicized as part of the pressure being applied to the Federal Republic of Yugoslavia (Serbia and Montenegro). In Vojvodina, there were about 344,000 members of the Hungarian national minority whose ethnic, cultural, linguistic and religious identity was completely guaranteed. In places where there was a greater number of Hungarians, they held a majority in all the institutions of authority, including education, the economy and social life. With respect to the Raska (Sandzak) region, it was no more than a geographic area and the problems of the rights and status of Muslims living there had been politically imposed and artificially construed.

516. Members of the Committee expressed satisfaction that the State party had submitted further information as had been requested and that a delegation had been sent from the capital to respond to the questions posed by the Committee. Members noted that although the report contained useful information on the legal framework for the protection of national and ethnic minorities, there was little information on the actual situation of the various minorities and the extent to which their rights were protected in reality. There was also little information on the tense situation prevailing in certain regions of the State where there had been serious violations of the Convention and where ethnic tensions threatened to escalate into armed conflict.

517. Members of the Committee referred to information from other sources on the situation in the Federal Republic of Yugoslavia (Serbia and Montenegro), in particular the report of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia (E/CN.4/1993/50). In that regard, members of the Committee wished to have further information on restrictions on the media in Kosovo and on problems that had arisen in the educational sector there following the reported changes in the school curricula which suppressed Albanian culture. Members also requested clarification on a number of laws listed in the report of the Special Rapporteur which were reported to be discriminatory in nature (see E/CN.4/1993/50, para. 156).

518. Members expressed their concern over the deterioration of the situation in Kosovo and wished to know why the autonomous status of that province had been revoked and the provincial courts there had been abolished. Regret was

expressed over the fact that the Albanians there had chosen not to participate in social and public life. Emphasizing the need to foster a dialogue between the Government and the local minority leaders in Kosovo, members wished to know what active steps the Government was undertaking with a view to reducing tension and normalizing the situation there.

519. Members were particularly concerned over reports of police brutality, arbitrary arrests, disappearances and mass dismissals of the Albanian national minority in Kosovo and wished to know what had been done to investigate those reports and punish those responsible for such acts. Members also wished to know to what extent Albanian language newspapers, radio broadcasts and television programmes were still available in Kosovo.

520. Members expressed their concern over reports of verbal and physical threats and other acts of intimidation directed against the minorities living in Vojvodina, including the destruction of homes and cultural and religious monuments. According to those reports, the police and judiciary had not provided effective protection to the victims of such abuse. Members were particularly disturbed over reports of complacency on the part of law enforcement officials regarding the campaigns of terror and intimidation directed against minorities by paramilitary groups, and requested further clarification of the situation in that regard.

521. Members noted with concern that a similar situation prevailed in Sandzak where there had been reports of a campaign of terror carried out by paramilitary organizations with the aim of intimidating the Muslim population into abandoning their homes. In that connection, members wished to receive further information on the steps being taken to investigate allegations of such ethnically motivated campaigns, whether there had been any punishment of the guilty in that regard and what steps had been taken to avoid recurrences.

522. Stressing the need for ongoing monitoring of ethnic tensions in the State party, members wished to know why the Government had so far declined to renew the mandate of the CSCE monitoring missions in Kosovo, Vojvodina and Sandzak.

523. Members also wished to have further information on the role of government officials in inciting the public to ethnic intolerance and violence; on discriminatory practices concerning employment, education and housing; on reported frequent harassment of gypsies by the police; and on the number of ethnic Bulgarians in the Federal Republic of Yugoslavia (Serbia and Montenegro), their participation in government and measures taken to facilitate the use of their language. Members also requested clarification on the extent to which the Federal army was linked to activities in neighbouring States where massive human rights violations and ethnic cleansing had been occurring.

524. Members wished to know whether the Federal Republic of Yugoslavia (Serbia and Montenegro) was considering making the declaration under article 14 of the Convention recognizing the competence of the Committee to receive individual complaints alleging violations of the Convention.

525. Replying to the questions, the representative of the State party stated that there was significant representation of minority groups at all levels of government and he provided detailed figures to that effect. With reference to problems concerning education in Kosovo, the representative stated that the ethnic Albanians were the only minority in the Federal Republic of Yugoslavia (Serbia and Montenegro) who refused to exercise their rights and had chosen to boycott the schools. As a result, there were 466 schools for ethnic Albanians in Kosovo which were not used. There were a large number of schools which had

been provided for the use of other minorities in Kosovo as well as in Vojvodina and Sandzak and which were used.

526. With regard to the mass media, the representative stated that public information facilities were controlled by minority groups and that special resources were made available to them in order to support their operation. Specific information was given indicating that there were many newspapers and weeklies as well as radio and television programmes in minority languages throughout the country. In particular, such facilities were provided in the Hungarian, Slovak, Albanian, Russian, Romanian, Ukrainian and Bulgarian languages.

527. With respect to the war crimes tribunal which was to be established pursuant to the decision of the Security Council, cooperation with that body would depend on decisions taken by Parliament, particularly concerning amnesty and extradition laws.

528. Concerning the CSCE monitoring missions in certain areas of the country, the Government had no objection to those missions and there had been cooperation in that regard. The agreement had not been extended beyond the original six-month mandate, however, because the participation of the Federal Republic of Yugoslavia (Serbia and Montenegro) in CSCE had not been clarified. The Federal Republic of Yugoslavia (Serbia and Montenegro) sought only to participate as a member of that body and, thereby, in the decisions affecting its own future.

529. The representative stressed that the Government was open to dialogue with all minorities in the country. He stated that international criticism of the Federal Republic of Yugoslavia (Serbia and Montenegro) had not been objective and that there had been mistakes and shortcomings on all sides which had contributed to the problems which the region was currently experiencing. He declared his Government's willingness to fulfil its obligations under the Convention and to cooperate with the Committee as well as other international bodies in the search for constructive solutions.

Concluding observations

530. At its 1012th meeting, held on 20 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

531. The Committee noted that the report submitted by the State party contained information on the ethnic composition of the population, on the possibilities for minorities in the field of education and in public life and on the legal framework for the implementation of the Convention. However, the report did not reflect the actual situation of national and ethnic minorities in the Federal Republic of Yugoslavia (Serbia and Montenegro) or the current grave situation and tensions prevailing in certain parts of the State.

532. The Committee noted that its dialogue with the State party over the past several years had not been fruitful, with major discrepancies having become apparent between the provisions of the Convention and realities in the country. The Committee underlined the importance it attached to not only maintaining an open and constructive dialogue with States parties, but also to a practical follow-up of its suggestions and recommendations by the Federal Republic of Yugoslavia (Serbia and Montenegro).

(b) Positive aspects

533. The Committee welcomed the timely submission of the requested information and the presence of a delegation as an indication of the State party's willingness to continue the dialogue with the Committee.

534. The Committee took note of information made available to it regarding the Federal Ministry for Human and Minority Rights and of measures under consideration to provide a legal framework for the protection of the rights of members of minorities.

535. The Committee welcomed the interest shown by the delegation of the Federal Republic of Yugoslavia (Serbia and Montenegro) in an active role for the Committee with respect to re-establishing a dialogue between the interested parties in Kosovo within the framework of the early warning measures and urgent procedures devised by the Committee in its working paper of March 1993 (annex III).

(c) Principal subjects of concern

536. The Committee expressed deep concern over reports of serious and systematic violations of the Convention occurring in the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro). In that regard, the Committee considered that by not opposing extremism and ultra-nationalism on ethnic grounds, State authorities and political leaders incurred serious responsibility.

537. The Committee also noted with great concern that links existed between the Federal Republic of Yugoslavia (Serbia and Montenegro) and Serbian militias and paramilitary groups responsible for massive, gross and systematic violations of human rights in Bosnia and Herzegovina and in Croatian territories controlled by Serbs.

538. The Committee expressed alarm over the deteriorating situation in Kosovo. A number of measures had been implemented there which were in violation of the provisions of the Convention, including the enactment of discriminatory laws, the closing of minority schools, the mass dismissal of Albanians from their jobs and the imposition of restrictions on the use of the Albanian language. Such measures had resulted in the increasing marginalization of the Albanians in Kosovo. In that regard, the Committee noted that Albanians in Kosovo did not participate in public life.

539. The Committee was deeply concerned by reports indicating that in Kosovo, as well as in Vojvodina and Sandzak, members of national minorities had been subject to a campaign of terror carried out by paramilitary organizations with the aim of intimidating or forcing them into abandoning their homes. The Committee also noted that information provided by the Government referred to such practices directed against Serbs in Kosovo. The Committee was particularly concerned that the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) had not ensured that public security and law enforcement officials took steps effectively to prohibit such criminal activities, punish the perpetrators and compensate the victims, as required under article 6 of the Convention. The Committee was also concerned that other minorities in other regions of the Federal Republic of Yugoslavia (Serbia and Montenegro) were suffering from various forms of discrimination.

540. The Committee regretted the absence of a dialogue between the Government and the leaders of the Albanians in Kosovo aimed at reducing tension and helping to prevent further massive human rights violations in the region. In that connection, the Committee regretted the recent lapse of the mission of the

Conference on Security and Cooperation in Europe (CSCE), which was monitoring ethnic tension and human rights violations in Kosovo, as well as in Vojvodina and Sandzak.

541. The Committee was also concerned that Serbs in Bosnia and Herzegovina were hindering the attempts of the Government of that State to implement the Convention.

(d) Suggestions and recommendations

542. The Committee underlined that non-discrimination in the enjoyment of fundamental, civil, political, economic, social and cultural rights must be effectively guaranteed in law and actively protected in practice if further ethnic unrest was to be avoided. The Committee in no way encouraged unilateral trends towards separatism or secession. In that connection, the Committee noted that separatism could best be discouraged by the active promotion and protection of minority rights and inter-ethnic tolerance.

543. The Committee recommended that, in conformity with articles 2 and 4 of the Convention, the Government should prohibit racial discrimination and should urgently take vigorous steps to ban racist activities and propaganda. In that connection it was vital that paramilitary groups be disbanded, reports of ethnically motivated attacks, including allegations of arbitrary arrests, disappearance and torture, promptly investigated and those responsible punished. The Committee emphasized the importance of providing proper training in human rights norms for law enforcement officials in accordance with its General Recommendation XIII and of ensuring the equitable representation among their ranks of national minorities.

544. The Committee strongly emphasized the need for urgent measures in respect of the situation in Kosovo in order to prevent persisting ethnic problems there from escalating into violence and armed conflict. The Committee recommended, in particular, that all possible measures be taken by both sides to foster dialogue between the Government and the leaders of Albanians in Kosovo. The Committee recommended that the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) strengthen the territorial integrity of the State by considering ways of assuring autonomy in Kosovo with a view to ensuring the effective representation of the Albanians in political and judicial institutions and their participation in democratic processes.

545. The Committee urged the Federal Republic of Yugoslavia (Serbia and Montenegro) to undertake all measures at its disposal with a view to bringing to an end the massive, gross and systematic human rights violations currently occurring in those areas of Croatia and Bosnia and Herzegoina controlled by Serbs. The Committee also urged the State party to assist efforts to arrest, bring to trial and punish all those responsible for crimes which would be covered by the terms of reference of the international tribunal established pursuant to Security Council resolution 808 (1993). The Committee further urged the Federal Republic of Yugoslavia (Serbia and Montenegro) to give effect to the International Court of Justice's Order of Provisional Measures of 8 April 1993.

Further action

546. Taking into account the wish expressed by the representative of the Government and the need to promote a dialogue between the Albanians in Kosovo and the Government, the Committee offered its good offices in the form of a mission of its members. The purpose of the mission would be to help promote a dialogue for a peaceful solution of issues concerning respect for human rights in Kosovo, in particular the elimination of all forms of racial discrimination

and, whenever possible, to help parties concerned arrive at such a solution. It was understood that such a mission should have every opportunity to inform itself of the situation directly, including full discussion with central and local authorities, as well as with individuals and organizations. In that connection, no one should be victimized for, or in any way have their rights or security impaired as a result of, cooperating with the mission. The Committee requested the State party to respond by 1 October 1993 if it wished to accept that offer, in which case the Chairman, after due consultations, would designate members of the Committee for such a mission.

547. In accordance with article 9, paragraph 1, of the Convention, the Committee requested further information from the State party on measures taken to implement the provisions of the Convention, particularly in view of the concluding observations adopted by the Committee at its forty-third session. The State party was requested to provide that information by 1 January 1994 so that it might be considered by the Committee at its forty-fourth session.

Tonga

548. The ninth and tenth periodic reports of Tonga, submitted in one document (CERD/C/209/Add.5), were considered by the Committee at its 1006th meeting, held on 16 August 1993 without the participation of a representative of the reporting State (CERD/C/SR.1006), a fact regretted by the Committee.

549. Members of the Committee welcomed the report, which contained information on some issues discussed during the consideration of the previous report of Tonga four years previously. At the same time they indicated that the report did not follow the Committee's revised general guidelines for the preparation of reports and contained little information with respect to the measures undertaken by the Government in order to implement the provisions of the Convention, especially those contained in articles 5 to 7.

550. Members, having noted the absence of information of a general character in the report, asked the Government of Tonga to submit as soon as possible the "core document", which should be prepared in accordance with the "Consolidated guidelines for the initial part of the reports of State parties" (document HRI/CORE/1). They also indicated that for the preparation of that document, as well as the next periodic report, the Government might request the assistance of the Centre for Human Rights.

551. With respect to article 4 of the Convention, members of the Committee wished to know what concrete measures had been taken by the Government of Tonga to bring the national legislation into line with the provisions of that article.

552. As far as articles 5 to 7 of the Convention were concerned, members of the Committee requested that more detailed information be provided in the next periodic report with respect to their implementation. In particular, they wished to know whether the national electoral legislation met the requirements of article 5 of the Convention; what the procedure was for obtaining, through the competent national tribunals, just and adequate reparation or satisfaction for any damage suffered as a result of racial discrimination; and what the place of the Court of Appeal was in the national judicial system. The members also sought more detailed information with respect to education and teaching as a means of combating prejudice which lead to racial discrimination.

Concluding observations

553. At its 1009th meeting, held on 18 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

554. The Committee welcomed the submission of the ninth and tenth periodic reports by the Government of Tonga. It regretted that the report did not follow the Committee's revised general guidelines for the preparation of reports and that it had had to be considered in the absence of the State party's representative.

(b) Positive aspects

555. The Committee appreciated the statistical data in the report on the ethnic composition of society, which had been requested during the consideration of the previous report of Tonga on 11 August 1989.

556. It noted with appreciation the amendments made since the consideration of the eighth periodic report in 1989 to the Constitution of Tonga, the Inquest Act and the Town Regulations Act. Those amendments brought the national legislation of the State party closer to the requirements of the Convention.

(c) Factors and difficulties impeding the application of the Convention

557. The Committee took note of the administrative difficulties encountered by the State party in the preparation of reports to be submitted to the Committee in accordance with article 9 of the Convention.

(d) Principal subjects of concern

558. The Committee considered that the legislation of Tonga did not fulfil the requirements of article 4 of the Convention. It also noted that the information provided in the report was insufficient for an overall evaluation of the State party's implementation of the other provisions of the Convention. The Committee regretted the absence of information in the report with respect to the general political structure, the general legal framework within which human rights were protected, and the overall economic and social situation of the country.

(e) Suggestions and recommendations

559. The Committee recommended that careful consideration be given by the Government of Tonga to incorporating the provisions of the Convention in national legislation, particularly those of article 4 of the Convention. The Committee also recommended that the next report should contain more detailed information on the implementation of the Convention, especially its articles 5, 6 and 7. For that purpose the Committee recommended that the Government of Tonga should request the assistance of the Centre for Human Rights.

Papua New Guinea

560. In its concluding observations adopted at its forty-first session (see A/47/18, paras. 265-266) the Committee requested further information from the Government of Papua New Guinea on the situation in Bougainville, in accordance with article 9, paragraph 1, of the Convention. No information was received in response to that request.

561. The Committee considered the implementation of the Convention in Papua New Guinea, and, in particular, the situation in Bougainville, at its 1007 meeting held on 17 August 1993 (see CERD/C/SR.1007).

562. Members of the Committee focused on the situation in Bougainville, which is one of the State party's most resource-rich areas and had the world's largest copper mine.

563. It was noted that on 17 May 1990 the Bougainville Revolutionary Army (BRA) had proclaimed the island a republic and established a new interim government. The Government of Papua New Guinea had rejected that unilateral declaration of independence.

564. Members of the Committee expressed concern over statements by the self-proclaimed government of Bougainville that numerous human rights violations, including the torture of civilians, had been committed by the forces of Papua New Guinea stationed in Bougainville. In that regard, there had been reports that those forces had abused unarmed Bougainvillains during the emergency which had been declared by the Government, and that there had been indiscriminate killings of civilians by members of the defence force, beatings of suspected rebel sympathizers and search and destroy operations in villages near the copper mine which had turned thousands of villagers into refugees.

565. Members of the Committee also noted with concern reports that there had been large-scale human rights violations by members of BRA.

Concluding observations

566. At its 1010th meeting, held on 19 August 1993, the Committee adopted the following concluding observations.

(a) Principal subjects of concern

567. The Committee regretted that the State party had not fulfilled its obligations under article 9, paragraph 1, of the Convention, to report regularly on the legislative, judicial, administrative and other measures which had been adopted to give effect to the provisions of the Convention. The Committee also regretted that no information had been received pursuant to the request made at its forty-first session for further information on the situation in Bougainville and that no representative was present to respond to the questions and comments of the Committee.

568. The Committee was concerned at reports of serious human rights violations in Bougainville, including summary executions and population transfers.

569. The Committee was also concerned about large-scale mining operations in Bougainville without due regard to the rights of the population and the adverse effects of environmental degradation.

(b) Suggestions and recommendations

570. The Committee strongly recommended that the Government of Papua New Guinea should resume its dialogue with the Committee by fulfilling its reporting obligations under the Convention. In that regard, the Committee reiterated its request for information on the ethnic composition of the population and economic, social and cultural indicators pertaining to the situation of the various ethnic groups; on legislative and other measures taken under article 2 of the Convention to prohibit racial discrimination; and, in particular, on developments in Bougainville. The Committee suggested that the State party should avail itself of the services of the Centre for Human Rights in the preparation of its report.

571. The Committee suggested that the State party should cooperate with international fact-finding missions which were seeking to assist Papua New Guinea in the resolution of the conflict in Bougainville. In that connection, the Committee stressed that due consideration should be given to the principles contained in the Convention.

(c) Further action

572. The Committee expressed concern over reports on the human rights situation prevailing in Bougainville and requested that information concerning the human rights situation in the whole territory of Papua New Guinea that was available to the Secretary-General should be shared with the Committee.

573. The Committee expressed its willingness to accept any request which might be made by Papua New Guinea to provide technical assistance with a view to re-establishing a dialogue between the Government and the groups currently controlling Bougainville.

IV. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION

574. Under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee on the Elimination of Racial Discrimination for consideration. Eighteen of the 137 States that have ratified the Convention have declared that they recognize the competence of the Committee to receive and consider communications under article 14 of the Convention. These States are Algeria, Australia, Bulgaria, Costa Rica, Denmark, Ecuador, France, Hungary, Iceland, Italy, the Netherlands, Norway, Peru, the Russian Federation, Senegal, Sweden, Ukraine and Uruguay. No communication can be received by the Committee if it concerns a State party to the Convention that has not recognized the competence of the Committee under article 14. The competence of the Committee to exercise the functions provided for in article 14 became effective on 3 December 1982, pursuant to article 14, paragraph 9.

575. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

576. In carrying out its work under article 14 of the Convention, the Committee may be assisted by a working group of no more than five of its members, which submits recommendations to the Committee regarding the fulfilment of the conditions of admissibility of communications (rule 87) or on the action to be taken in respect of communications that have been declared admissible (rule 95, para. 1).

577. The Committee began its work under article 14 of the Convention at its thirtieth session, in 1984. At its thirty-sixth session, in August 1988, the Committee adopted its opinion on communication No. 1/1984 (Yilmaz-Dogan v. The Netherlands). 6/ At its thirty-ninth session, on 18 March 1991, the Committee adopted its opinion on communication No. 2/1989 (Demba Talibe Diop v. France). 7/

578. Under article 14, paragraph 8, of the Convention, the Committee shall include in its annual report a summary of the communications considered by it and of the explanations and statements of the States parties concerned, together with the Committee's own suggestions and recommendations thereon. This reporting stage has not yet been reached in respect of communication No. 3/1991, which was placed before the Committee at its forty-first session, in August 1992, and was declared admissible at the forty-second session, in March 1993.

579. At its forty-second session, on 16 March 1993, the Committee, acting under rule 94, paragraph 7, of its rules of procedure 8/ declared admissible and adopted its opinion on communication No. 4/1991 (L.K. v. The Netherlands). 9/ The communication concerned a Moroccan citizen residing in the Netherlands, who claimed that his rights under articles 4, 5, and 6 of the Convention had been violated by the Netherlands. He claimed that, in August 1989, the residents of a street in the town of U., where he was seeking subsidized housing for himself and his family, had made remarks that amounted to racial discrimination and to incitement to acts of violence against persons of another colour or ethnic

origin. Subsequent police investigations of the incident were said to have been slow and half-hearted, and no one was criminally prosecuted in relation to the event.

580. The State party submitted that the decision of the judicial authorities not to prosecute anyone in connection with the events of August 1989 was appropriately motivated and the result of a thorough investigation. It similarly rejected the author's contention that the proceedings before the Court of Appeal of Amsterdam, to which he had appealed the prosecutor's decision not to prosecute, had been unduly prolonged. Finally, it argued that Netherlands legislation met the requirements of article 2, paragraph 1(d), of the Convention by making racial discrimination a criminal offence under certain provisions of the Criminal Code. The criminalization of racial discrimination was seen by the State party as representing compliance with the obligation embodied in article 4 of the Convention, as that article was not intended to ensure that criminal proceedings had to be instituted in all circumstances in respect of conduct to which the article applied.

581. In its opinion, the Committee found, on the basis of the information before it, that the remarks and threats made *vis-à-vis* L.K. in August 1989 amounted to incitement to racial discrimination and to acts of violence against persons of another colour or ethnic origin, contrary to article 4(a) of the Convention. It concluded that the investigations into those incidents by the police and prosecution authorities had been incomplete.

582. The Committee held that the enactment of laws making racial discrimination a criminal act did not in itself represent full compliance with the obligations of States parties under the Convention. It added that whenever threats of racial violence were made, it was incumbent upon a State to investigate with due diligence and expedition; in the case at issue, the State party had failed to do so.

583. Finally, the Committee found that given the inadequate response to the incidents of which the author had been a victim, the police and judicial authorities had failed to afford to the author effective protection and remedies, within the meaning of article 6 of the Convention. It suggested that the State party should review its policy and procedures concerning the decision to prosecute in cases of alleged racial discrimination, and recommended that the author be provided with relief commensurate with the moral damage he had suffered.

584. For the text of the opinion on communication No. 4/1991, see annex IV to the present report.

V. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

585. Under article 15 of the Convention, the Committee is empowered to consider copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, transmitted to it by the competent bodies of the United Nations, and to submit to them and to the General Assembly its expressions of opinion and recommendations relating to the principles and objectives of the Convention in these Territories.

586. At its 1992 session, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples continued to follow the work of the Committee on the Elimination of Racial Discrimination. The Special Committee also continued to monitor related developments in the Territories, having regard to the relevant provisions of article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination. 10/

587. As a result of earlier decisions of the Trusteeship Council and the Special Committee, the Secretary-General transmitted to the Committee at its forty-second and forty-third sessions the documents listed in annex IX to the present report.

588. At its 1012th meeting, the Committee decided to take note of the relevant documentation and information submitted to it under article 15 of the Convention and to make the following observations:

> "The Committee once again finds it impossible to fulfil its functions under article 15, paragraph 2 (a) of the Convention, owing to the total absence of any copies of petitions as provided therein. Furthermore, the Committee finds that there is no valid information concerning legislative, judicial, administrative or other measures directly related to the principles and objectives of the Convention and, therefore, reiterates its request that it be furnished with the material expressly referred to in article 15 of the Convention so that it will be able to fulfil its functions."

VI. SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

589. The Committee considered this item at its forty-second session (972nd, 973rd and 984th meetings).

590. For the consideration of this item, the Committee had before it the report of the Secretary-General on the implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination (A/47/432), General Assembly resolution 47/77 on the Second Decade, and Commission on Human Rights resolution 1993/11 on the implementation of the Programme of Action for the Second Decade and the launching of a third decade to combat racism and racial discrimination.

591. At the forty-second session, members of the Committee discussed a working paper prepared by the rapporteur of the Committee on a possible third decade. Members noted with satisfaction that the 10 themes for action that had been proposed by the Committee in 1992 had been included among the proposals for the draft programme of action for a third decade to combat racism and racial discrimination. In particular, members expressed interest in the proposal to hold seminars on a variety of themes related to the work of the Committee. Those themes included the effectiveness of national legislation and recourse procedures available to victims of racism; the eradication of incitement to racial hatred and discrimination; and the problem of refugee flows resulting from ethnic conflicts or political restructuring.

592. Members emphasized the need to enhance international cooperation in the elimination of racial discrimination. In that connection, the view was expressed that, during the third decade, the Committee should pay more attention to practical ways of cooperating with local and regional human rights bodies and that the proposed seminars should be held in different parts of the world, particularly in developing countries, and should involve more experts from the developing world. Ways should also be found of involving national and regional bodies that were actually combating racial discrimination first-hand but which often lacked the means to travel to seminars.

593. Members of the Committee expressed particular interest in the proposal that expert members of the Committee should prepare a report on obstacles to the effective implementation of the Convention, which should include suggestions for remedial measures. Members also expressed interest in the development of indicators by which States parties could measure the progress achieved in implementing their policies.

594. Concern was expressed over the rise in ethnic conflict in many parts of the world that had led to violence and, in some cases, armed conflict. Members underlined the need to prevent ethnic conflicts from erupting into violence, which a proper implementation of the Convention would help to prevent. They also noted that, in many cases, States failed to apply existing provisions of their Constitutions or Penal Codes, such as those providing penalties for incitement to racial hatred, and suggested that, by reviewing specific cases of incitement in earlier State reports, the Committee might be in a better position to help prevent such acts in the future.

595. It requested the rapporteur to revise his paper in the light of the Committee's discussions and to include further proposals for the draft programme of action for the third decade. The revised version of the paper was adopted by the Committee at its 984th meeting and forwarded to the Secretary-General for action.

VII. WORLD CONFERENCE ON HUMAN RIGHTS

596. The Committee considered this item at its forty-second session (966th meeting) and at its forty-third session (987th meeting).

597. For its consideration of this item, the Committee had before it the following documents:

(a) General Assembly resolution 47/122 of 18 December 1992 on the World Conference on Human Rights;

(b) Report of the Preparatory Committee for the World Conference on Human Rights, third session (A/CONF.157/PC/54);

(c) Report of the Preparatory Committee for the World Conference on Human Rights, fourth session (A/CONF.157/PC/98);

(d) Report of the fourth meeting of persons chairing the human rights treaty bodies (A/47/628);

(e) Reports of the meetings of chairpersons and representatives of the human rights treaty bodies (A/CONF.157/PC/62/Add.15 and A/CONF.157/TBB/4);

(f) Vienna Declaration and Programme of Action (A/CONF.157/23).

598. At its 966th meeting, held on 8 March 1993, the Committee was briefed on the results of the third session of the Preparatory Committee for the World Conference by Mr. Agha Shahi, who represented the Committee at that session. Mr. Shahi stated, inter alia, that the representatives of the human rights treaty bodies who had participated in the meeting of the Preparatory Committee had sent a letter to the Secretary-General of the World Conference suggesting that a working group should be established to consider issues relevant to the implementation of existing human rights standards and instruments and to formulate concrete recommendations aimed at promoting, encouraging and monitoring respect for human rights. The matter had also been brought to the attention of the fourth meeting of persons chairing the human rights treaty bodies, which had supported the proposal. Additionally, Mr. Shahi, along with Mr. Bent Sorensen, who represented the Committee against Torture at the Preparatory Committee, had addressed a communication to the Under-Secretary-General for Human Rights recommending that urgent consideration be given to the possibility of preventing human rights violations through the activities of the human rights treaty bodies. That proposal had also been subsequently supported by the fourth meeting of chairpersons.

599. Members of the Committee supported the idea that the human rights treaty bodies should play a more active role in preventing serious and massive human rights violations and suggested that that matter should be raised at the World Conference on Human Rights.

600. At its 987th meeting, held on 3 August 1993, the Committee discussed the World Conference on Human Rights, which had taken place at Vienna in June 1993. One member of the Committee who had participated in the Conference reported that many delegations had stressed that implementation of treaty obligations should be impartial and non-selective. The importance of setting up national human rights institutions and the vital role of non-governmental organizations in promoting and protecting human rights had also been emphasized. The Conference

had condemned torture and arbitrary executions, but no concrete suggestions had emerged as to how existing machinery could be strengthened to eliminate such practices.

601. Members pointed out that the Vienna Declaration and Programme of Action (A/CONF.157/23) which had been adopted by the Conference, contained a number of valuable points, in particular that self-determination should not be construed as encouraging any action which would impair the territorial integrity of sovereign States, that protection of human rights was a legitimate concern of the international community and that democracy, development and human rights were interdependent. Furthermore, the parts of section II of the document dealing with racial discrimination, minorities, indigenous people and migrant workers could serve as guiding principles for the Committee's work.

VIII. DECISIONS AND GENERAL RECOMMENDATIONS ADOPTED BY THE COMMITTEE AT ITS FORTY-SECOND SESSION

A. Decisions

1 (42) Further information requested from certain States of the former Yugoslavia

1. The Committee expresses its grave concern over the ongoing ethnic conflict in the territory of the former Yugoslavia.

2. The Committee requests the Government of Yugoslavia (Serbia and Montenegro) and the Government of the Republic of Croatia to submit, in accordance with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, further information on the implementation of the Convention. This information should be submitted as soon as possible and no later than 31 July 1993.

3. The Committee encourages the Government of the Republic of Bosnia and Herzegovina to confirm to the Secretary-General, as depositary of the International Convention on the Elimination of All Forms of Racial Discrimination, that it continues to be bound by the obligations under that Convention. If the Government of Bosnia and Herzegovina proceeds accordingly, the Committee requests it to submit information by 31 July 1993 on the implementation of the Convention.

4. The Committee decides to examine the situation in the territory of the former Yugoslavia in regard to the International Convention on the Elimination of All Forms of Racial Discrimination at its forty-third session to be held in August 1993. In accordance with rule 64 of its rules of procedure, the Committee invites representatives of the States concerned to be present at the examination.

983rd meeting
19 March 1993

B. General Recommendations

General Recommendation XI (42) on non-citizens

1. Article 1, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination defines racial discrimination. Article 1, paragraph 2, excepts from this definition actions by a State party which differentiate between citizens and non-citizens. Article 1, paragraph 3, qualifies article 1, paragraph 2, by declaring that, among non-citizens, States parties may not discriminate against any particular nationality.

2. The Committee has noted that article 1, paragraph 2, has on occasion been interpreted as absolving States parties from any obligation to report on matters relating to legislation on foreigners. The Committee therefore affirms that States parties are under an obligation to report fully upon legislation on foreigners and its implementation.

3. The Committee further affirms that article 1, paragraph 2, must not be interpreted to detract in any way from the rights and freedoms recognized and enunciated in other instruments, especially the Universal Declaration of Human

Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

969th meeting
9 March 1993

General Recommendation XII (42) on successor States

The Committee on the Elimination of Racial Discrimination,

Emphasizing the importance of universal participation of States in the International Convention on the Elimination of All Forms of Racial Discrimination,

Taking into account the emergence of successor States as a result of the dissolution of States,

1. Encourages successor States that have not yet done so to confirm to the Secretary-General, as depositary of the International Convention on the Elimination of All Forms of Racial Discrimination, that they continue to be bound by obligations under that Convention, if predecessor States were parties to it;

2. Invites successor States that have not yet done so to accede to the International Convention on the Elimination of All Forms of Racial Discrimination if predecessor States were not parties to it;

3. Invites successor States to consider the importance of making the declaration under article 14, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, recognizing the competence of the Committee on the Elimination of Racial Discrimination to receive and consider individual communications.

978th meeting
16 March 1993

General Recommendation XIII (42) on the training of law enforcement officials in the protection of human rights

1. In accordance with article 2, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, States parties have undertaken that all public authorities and public institutions, national and local, will not engage in any practice of racial discrimination; further, States parties have undertaken to guarantee the rights listed in article 5 of the Convention to everyone without distinction as to race, colour or national or ethnic origin.

2. The fulfilment of these obligations very much depends upon national law enforcement officials who exercise police powers, especially the powers of detention or arrest, and upon whether they are properly informed about the obligations their State has entered into under the Convention. Law enforcement officials should receive intensive training to ensure that in the performance of their duties they respect as well as protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, colour or national or ethnic origin.

3. In the implementation of article 7 of the Convention, the Committee calls upon States parties to review and improve the training of law enforcement officials so that the standards of the Convention as well as the Code of Conduct for Law Enforcement Officials (1979) are fully implemented. They should also include respective information thereupon in their periodic reports.

979th meeting
16 March 1993

General Recommendation XIV (42) on article 1, paragraph 1, of the Convention

1. Non-discrimination, together with equality before the law and equal protection of the law without any discrimination, constitutes a basic principle in the protection of human rights. The Committee wishes to draw the attention of States parties to certain features of the definition of racial discrimination in article 1, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination. It is of the opinion that the words "based on" do not bear any meaning different from "on the grounds of" in preambular paragraph 7. A distinction is contrary to the Convention if it has either the purpose or the effect of impairing particular rights and freedoms. This is confirmed by the obligation placed upon States parties by article 2, paragraph 1 (c), to nullify any law or practice which has the effect of creating or perpetuating racial discrimination.

2. The Committee observes that a differentiation of treatment will not constitute discrimination if the criteria for such differentiation, judged against the objectives and purposes of the Convention, are legitimate or fall within the scope of article 1, paragraph 4, of the Convention. In considering the criteria that may have been employed, the Committee will acknowledge that particular actions may have varied purposes. In seeking to determine whether an action has an effect contrary to the Convention, it will look to see whether that action has an unjustifiable disparate impact upon a group distinguished by race, colour, descent, or national or ethnic origin.

3. Article 1, paragraph 1, of the Convention also refers to the political, economic, social and cultural fields; the related rights and freedoms are set up in article 5.

981st meeting
17 March 1993

General Recommendation XV (42) on article 4 of the Convention

1. When the International Convention on the Elimination of All Forms of Racial Discrimination was being adopted, article 4 was regarded as central to the struggle against racial discrimination. At that time, there was a widespread fear of the revival of authoritarian ideologies. The proscription of the dissemination of ideas of racial superiority, and of organized activity likely to incite persons to racial violence, was properly regarded as crucial. Since that time, the Committee has received evidence of organized violence based on ethnic origin and the political exploitation of ethnic difference. As a result, implementation of article 4 is now of increased importance.

2. The Committee recalls its General Recommendation VII in which it explained that the provisions of article 4 are of a mandatory character. To satisfy these obligations, States parties have not only to enact appropriate legislation but

also to ensure that it is effectively enforced. Because threats and acts of racial violence easily lead to other such acts and generate an atmosphere of hostility, only immediate intervention can meet the obligations of effective response.

3. Article 4 (a) requires States parties to penalize four categories of misconduct: (i) dissemination of ideas based upon racial superiority or hatred; (ii) incitement to racial hatred; (iii) acts of violence against any race or group of persons of another colour or ethnic origin; and (iv) incitement to such acts.

4. In the opinion of the Committee, the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression. This right is embodied in article 19 of the Universal Declaration of Human Rights and is recalled in article 5 (d) (viii) of the International Convention on the Elimination of All Forms of Racial Discrimination. Its relevance to article 4 is noted in the article itself. The citizen's exercise of this right carries special duties and responsibilities, specified in article 29, paragraph 2, of the Universal Declaration, among which the obligation not to disseminate racist ideas is of particular importance. The Committee wishes, furthermore, to draw to the attention of States parties article 20 of the International Covenant on Civil and Political Rights, according to which any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

5. Article 4 (a) also penalizes the financing of racist activities, which the Committee takes to include all the activities mentioned in paragraph 3 above, that is to say, activities deriving from ethnic as well as racial differences. The Committee calls upon States parties to investigate whether their national law and its implementation meet this requirement.

6. Some States have maintained that in their legal order it is inappropriate to declare illegal an organization before its members have promoted or incited racial discrimination. The Committee is of the opinion that article 4 (b) places a greater burden upon such States to be vigilant in proceeding against such organizations at the earliest moment. These organizations, as well as organized and other propaganda activities, have to be declared illegal and prohibited. Participation in these organizations is, of itself, to be punished.

7. Article 4 (c) of the Convention outlines the obligations of public authorities. Public authorities at all administrative levels, including municipalities, are bound by this paragraph. The Committee holds that States parties must ensure that they observe these obligations and report on this.

981st meeting
17 March 1993

General Recommendation XVI (42) concerning the application of article 9 of the Convention

1. Under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, States parties have undertaken to submit, through the Secretary-General of the United Nations, for consideration by the Committee, reports on measures taken by them to give effect to the provisions of the Convention.

2. With respect to this obligation of the States parties, the Committee has noted that, on some occasions, reports have made references to situations existing in other States.

3. For this reason, the Committee wishes to remind States parties of the provisions of article 9 of the Convention concerning the contents of their reports, while bearing in mind article 11, which is the only procedural means available to States for drawing to the attention of the Committee situations in which they consider that some other State is not giving effect to the provisions of the Convention.

983rd meeting
19 March 1993

General Recommendation XVII (42) on the establishment of national institutions to facilitate the implementation of the Convention

The Committee on the Elimination of Racial Discrimination,

Considering the practice of States parties concerning the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination,

Convinced of the necessity to encourage further the establishment of national institutions to facilitate the implementation of the Convention,

Emphasizing the need to strengthen further the implementation of the Convention,

1. Recommends that States parties establish national commissions or other appropriate bodies, taking into account, *mutatis mutandis*, the principles relating to the status of national institutions annexed to Commission on Human Rights resolution 1992/54 of 3 March 1992, to serve, *inter alia*, the following purposes:

(a) To promote respect for the enjoyment of human rights without any discrimination, as expressly set out in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination;

(b) To review government policy towards protection against racial discrimination;

(c) To monitor legislative compliance with the provisions of the Convention;

(d) To educate the public about the obligations of States parties under the Convention;

(e) To assist the Government in the preparation of reports submitted to the Committee on the Elimination of Racial Discrimination;

2. Also recommends that, where such commissions have been established, they should be associated with the preparation of reports and possibly included in government delegations in order to intensify the dialogue between the Committee and the State party concerned.

983rd meeting
19 March 1993

Notes

1/ See Official Records of the International Convention on the Elimination of All Forms of Racial Discrimination, Fourteenth Meeting of States Parties, Decisions (CERD/SP/45).

2/ Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18 (A/8718), chap. IX, sect. B.

3/ Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 27 (A/8027), annex III, sect. A.

4/ At its 980th meeting, held on 17 March 1993, the Committee decided to adopt provisional concluding observations pending the submission by Chad of its promised report and the consideration of that report by the Committee.

5/ Mr. Agha Shahi stated that he did not wish to be associated with these concluding observations.

6/ Official Records of the General Assembly, Forty-third Session, Supplement No. 18 (A/43/18), annex IV.

7/ Official Records of the General Assembly, Forty-sixth Session, Supplement No. 18 (A/46/18), annex VIII.

8/ For the text of rule 94, paragraph 7, see annex V to the present report.

9/ At his request, the name of the author was not disclosed.

10/ See A/47/23 (Part I), paras. 92, 102 and 103.

ANNEX I

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (137), as at 20 August 1993

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Afghanistan	6 July 1983 a/	5 August 1983
Algeria	14 February 1972	15 March 1972
Antigua and Barbuda	25 October 1988 b/	25 October 1988 b/
Argentina	2 October 1968	4 January 1969
Armenia	23 June 1993 a/	23 July 1993
Australia	30 September 1975	30 October 1975
Austria	9 May 1972	8 June 1972
Bahamas	5 August 1975 b/	5 August 1975 b/
Bahrain	27 March 1990 a/	26 April 1990
Bangladesh	11 June 1979 a/	11 July 1979
Barbados	8 November 1972 a/	8 December 1972
Belarus	8 April 1969	8 May 1969
Belgium	7 August 1975	6 September 1975
Bolivia	22 September 1970	22 October 1970
Bosnia and Herzegovina	16 July 1993 b/	16 July 1993 b/
Botswana	20 February 1974 a/	22 March 1974
Brazil	27 March 1968	4 January 1969
Bulgaria	8 August 1966	4 January 1969
Burkina Faso	18 July 1974 a/	17 August 1974
Burundi	27 October 1977	26 November 1977
Cambodia	28 November 1983	28 December 1983
Cameroon	24 June 1971	24 July 1971
Canada	14 October 1970	15 November 1970
Cape Verde	3 October 1979 a/	2 November 1979
Central African Republic	16 March 1971	15 April 1971
Chad	17 August 1977 a/	16 September 1977
Chile	20 October 1971	19 November 1971
China	29 December 1981 a/	28 January 1982
Colombia	2 September 1981	2 October 1981
Congo	11 July 1988 a/	10 August 1988
Costa Rica	16 January 1967	4 January 1969

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Côte d'Ivoire	4 January 1973 a/	3 February 1973
Croatia	12 October 1992 b/	8 October 1991 b/
Cuba	15 February 1972	16 March 1972
Cyprus	21 April 1967	4 January 1969
Czech Republic	22 February 1993 b/	1 January 1993 b/
Denmark	9 December 1971	8 January 1972
Dominican Republic	25 May 1983 a/	24 June 1983
Ecuador	22 September 1966 a/	4 January 1969
Egypt	1 May 1967	4 January 1969
El Salvador	30 November 1979 a/	30 December 1979
Estonia	21 October 1991 a/	20 November 1991
Ethiopia	23 June 1976 a/	23 July 1976
Fiji	11 January 1973 b/	11 January 1973 b/
Finland	14 July 1970	13 August 1970
France	28 July 1971 a/	27 August 1971
Gabon	29 February 1980	30 March 1980
Gambia	29 December 1978 a/	28 January 1979
Germany	16 May 1969	15 June 1969
Ghana	8 September 1966	4 January 1969
Greece	18 June 1970	18 July 1970
Guatemala	18 January 1983	17 February 1983
Guinea	14 March 1977	13 April 1977
Guyana	15 February 1977	17 March 1977
Haiti	19 December 1972	18 January 1973
Holy See	1 May 1969	31 May 1969
Hungary	1 May 1967	4 January 1969
Iceland	13 March 1967	4 January 1969
India	3 December 1968	4 January 1969
Iran (Islamic Republic of)	29 August 1968	4 January 1969
Iraq	14 January 1970	13 February 1970
Israel	3 January 1979	2 February 1979
Italy	5 January 1976	4 February 1976
Jamaica	4 June 1971	4 July 1971
Jordan	30 May 1974 a/	29 June 1974
Kuwait	15 October 1968 a/	4 January 1969

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Lao People's Democratic Republic	22 February 1974 a/	24 March 1974
Latvia	14 April 1992 a/	14 May 1992
Lebanon	12 November 1971 a/	12 December 1971
Lesotho	4 November 1971 a/	4 December 1971
Liberia	5 November 1976 a/	5 December 1976
Libyan Arab Jamahiriya	3 July 1968 a/	4 January 1969
Luxembourg	1 May 1978	31 May 1978
Madagascar	7 February 1969	9 March 1969
Maldives	24 April 1984 a/	24 May 1984
Mali	16 July 1974 a/	15 August 1974
Malta	27 May 1971	26 June 1971
Mauritania	13 December 1988	12 January 1989
Mauritius	30 May 1972 a/	29 June 1972
Mexico	20 February 1975	22 March 1975
Mongolia	6 August 1969	5 September 1969
Morocco	18 December 1970	17 January 1971
Mozambique	18 April 1983 a/	18 May 1983
Namibia	11 November 1982 a/	11 December 1982
Nepal	30 January 1971 a/	1 March 1971
Netherlands	10 December 1971	9 January 1972
New Zealand	22 November 1972	22 December 1972
Nicaragua	15 February 1978 a/	17 March 1978
Niger	27 April 1967	4 January 1969
Nigeria	16 October 1967 a/	4 January 1969
Norway	6 August 1970	5 September 1970
Pakistan	21 September 1966	4 January 1969
Panama	16 August 1967	4 January 1969
Papua New Guinea	27 January 1982 a/	26 February 1982
Peru	29 September 1971	29 October 1971
Philippines	15 September 1967	4 January 1969
Poland	5 December 1968	4 January 1969
Portugal	24 August 1982 a/	23 September 1982
Qatar	22 July 1976 a/	21 August 1976
Republic of Korea	5 December 1978 a/	4 January 1979
Republic of Moldova	26 January 1993 a/	25 February 1993
Romania	15 September 1970 a/	15 October 1970

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Russian Federation	4 February 1969	6 March 1969
Rwanda	16 April 1975 a/	16 May 1975
Saint Lucia	14 February 1990 b/	14 February 1990 b/
Saint Vincent and the Grenadines	9 November 1981 a/	9 December 1981
Senegal	19 April 1972	19 May 1972
Seychelles	7 March 1978 a/	6 April 1978
Sierra Leone	2 August 1967	4 January 1969
Slovakia	28 May 1993 b/	28 May 1993 b/
Slovenia	6 July 1992 b/	6 July 1992
Solomon Islands	17 March 1982 b/	17 March 1982 b/
Somalia	26 August 1975	25 September 1975
Spain	13 September 1968 a/	4 January 1969
Sri Lanka	18 February 1982 a/	20 March 1982
Sudan	21 March 1977 a/	20 April 1977
Suriname	15 March 1984 b/	15 March 1984 b/
Swaziland	7 April 1969 a/	7 May 1969
Sweden	6 December 1971	5 January 1972
Syrian Arab Republic	21 April 1969 a/	21 May 1969
Togo	1 September 1972 a/	1 October 1972
Tonga	16 February 1972 a/	17 March 1972
Trinidad and Tobago	4 October 1973	3 November 1973
Tunisia	13 January 1967	4 January 1969
Uganda	21 November 1980 a/	21 December 1980
Ukraine	7 March 1969	6 April 1969
United Arab Emirates	20 June 1974 a/	20 July 1974
United Kingdom of Great Britain and Northern Ireland	7 March 1969	6 April 1969
United Republic of Tanzania	27 October 1972 a/	26 November 1972
Uruguay	30 August 1968	4 January 1969
Venezuela	10 October 1967	4 January 1969
Viet Nam	9 June 1982 a/	9 July 1982
Yemen	18 October 1972 a/	17 November 1972
Yugoslavia	2 October 1967	4 January 1969
Zaire	21 April 1976 a/	21 May 1976
Zambia	4 February 1972	5 March 1972
Zimbabwe	13 May 1991 a/	12 June 1991

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention (18)

State party	Date of deposit of the declaration	Effective date
Algeria	12 September 1989	12 September 1989
Australia	28 January 1993	28 January 1993
Bulgaria	12 May 1993	12 May 1993
Costa Rica	8 January 1974	8 January 1974
Denmark	11 October 1985	11 October 1985
Ecuador	18 March 1977	18 March 1977
France	16 August 1982	16 August 1982
Hungary	13 September 1990	13 September 1990
Iceland	10 August 1981	10 August 1981
Italy	5 May 1978	5 May 1978
Netherlands	10 December 1971	9 January 1972
Norway	23 January 1976	23 January 1976
Peru	27 November 1984	27 November 1984
Russian Federation	1 October 1991	1 October 1991
Senegal	3 December 1982	3 December 1982
Sweden	6 December 1971	5 January 1972
Ukraine	28 July 1992	28 July 1992
Uruguay	11 September 1972	11 September 1972

Notes

a/ Accession.

b/ Date of receipt of notification of succession.

ANNEX II

Agendas of the forty-second and forty-third sessions

A. Forty-second session

1. Adoption of the agenda.

2. Action by the General Assembly at its forty-seventh session:

(a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention (General Assembly resolution 47/79);

(b) Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (General Assembly resolution 47/111).

3. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

4. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

5. Consideration of communications under article 14 of the Convention.

6. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

7. Second Decade to Combat Racism and Racial Discrimination.

8. Preparatory activities relating to the World Conference on Human Rights.

B. Forty-third session

1. Adoption of the agenda.

2. Action by the General Assembly at its forty-seventh session: effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (General Assembly resolution 47/111).

3. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

4. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

5. Consideration of communications under article 14 of the Convention.

6. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

7. Second Decade to Combat Racism and Racial Discrimination.

8. World Conference on Human Rights.

9. Report of the Committee to the General Assembly at its forty-eighth session under article 9, paragraph 2, of the Convention.

ANNEX III

Prevention of racial discrimination, including early warning and urgent procedures: working paper adopted by the Committee on the Elimination of Racial Discrimination

A. The need for preventive measures

1. At its summit meeting held on 31 January 1992, the Security Council observed that:

> "The absence of war and military conflicts amongst States does not, in itself, ensure international peace and security. The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security. The United Nations membership as a whole, working through the appropriate bodies needs to give the highest priority to the solution of these matters." (S/23500, p. 3)

2. In his report entitled "An agenda for peace", the Secretary-General noted that one of the aims of the United Nations in the changed international context must be to identify at the earliest possible stage situations that could produce conflict. The Secretary-General also noted that the stability of States would be enhanced by the commitment to human rights with a special sensitivity to the rights of minorities and by the increasingly effective machinery of the United Nations dealing with human rights. Early warning based on information gathering and informal or formal fact-finding was needed to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occurred (A/47/277, paras. 15, 18, 20 and 23).

3. The Secretary-General, in his report to the General Assembly at its forty-seventh session on the work of the Organization, emphasized the primary importance of preventing human rights violations before they occur. In this regard, the United Nations must be able to identify situations which could degenerate into violations and to take preventive measures. In situations of tension related to minorities, for example, intervention based on widely accepted standards could dissipate misunderstandings and help build a framework for living together. In view of the impressive quantity of information on human rights already available within the United Nations system, the challenge is to bring this information together in a focused way so as to better understand complex situations and thus be in a position to suggest appropriate action (A/47/1, para. 102).

4. The report of the Secretary-General also identified "the need to consider ways to empower the Secretary-General and the expert human rights bodies to bring massive violations of human rights to the attention of the Security Council together with recommendations for action" (A/47/1, para. 101). The Chairpersons of human rights treaty bodies, at their fourth meeting, expressed their full support for that statement of the Secretary-General and urged the treaty bodies to take all appropriate measures in response to such situations (A/47/628, para. 43). In regard to the definition of the term "massive", the Chairpersons noted that it would be for each treaty body to decide which situation required forwarding to the Security Council (A/47/628, para. 37).

5. The General Assembly, in its resolution 47/120 of 18 December 1992 entitled "An agenda for peace: preventive diplomacy and related matters", emphasized the need for all organs and bodies of the United Nations, as appropriate, to intensify their efforts to strengthen the Organization's role in preventive

diplomacy, peacemaking, peace-keeping and peace building and to continue the discussion of the Secretary-General's report with a view to adequate action being taken.

6. The fourth meeting of persons chairing the human rights treaty bodies considered a suggestion by a member of the Committee on the Elimination of Racial Discrimination and a member of the Committee against Torture that they examine the possibility of undertaking preventive action against human rights violations, within the scope of the activities of the human rights treaty bodies. As a result of their consideration of this issue, the meeting concluded that:

> "... the treaty bodies have an important role in seeking to prevent as well as to respond to human rights violations. It is thus appropriate for each treaty body to undertake an urgent examination of all possible measures that it might take, within its competence, both to prevent human rights violations from occurring and to monitor more closely emergency situations of all kinds arising within the jurisdiction of States parties. Where procedural innovations are required for this purpose, they should be considered as soon as possible." (A/47/628, para. 44)

B. Procedural innovations and other measures which the Committee on the Elimination of Racial Discrimination could decide to take with a view to the prevention of racial discrimination

7. The Committee on the Elimination of Racial Discrimination bears in mind the innovative procedures that have been adopted by other treaty bodies with a view to early warning and urgent response. Such procedures have been adopted by the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child.

8. Efforts to prevent serious violations of the International Convention on the Elimination of All Forms of Racial Discrimination would include the following sets of functions:

(i) Early warning measures to address existing structural problems from escalating into conflicts. These could also include confidence-building measures to identify and support structures to strengthen racial tolerance and solidify peace in order to prevent a relapse into conflict in situations where it has occurred;

(ii) Urgent procedures to respond to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention.

9. Criteria should be developed as far as possible in order to guide the use of preventive measures, particularly in regard to triggering the mechanism and progressing towards increasingly active stages of the procedure.

(a) Possible criteria for initiating an urgent procedure could include the presence of a serious, massive or persistent pattern of racial discrimination; or (similar to that adopted by the Committee on the Rights of the Child) that the situation is serious and there is a risk of further racial discrimination.

(b) Early warning concerns could include some of the following criteria:

(i) The lack of an adequate legislative basis for defining and criminalizing all forms of racial discrimination, as provided for in the Convention;

(ii) Inadequate implementation or enforcement mechanisms, including the lack of recourse procedures;

(iii) The presence of a pattern of escalating racial hatred and violence, or racist propaganda or appeals to racial intolerance by persons, groups or organizations, notably by elected or other officials;

(iv) A significant pattern of racial discrimination evidenced in social and economic indicators;

(v) Significant flows of refugees or displaced persons resulting from a pattern of racial discrimination or encroachment on the lands of minority communities.

10. Possible procedural innovations and other measures which the Committee could consider taking with a view to preventing human rights violations include the following:

Early warning measures

(a) The Committee could establish a follow-up mechanism to the suggestions and recommendations contained in its concluding observations, particularly in those cases where such action was deemed especially important.

(b) The Committee could offer to send to States parties one or more of its members in order to facilitate the implementation of certain international standards or to help deal with specific problems. Efforts to establish a human rights institutional infrastructure, including, for example, the creation of national bodies for the promotion and protection of the human rights of racial minorities, could significantly profit from the technical advice and assistance provided by such a visit.

(c) In its concluding observations, the Committee could include, as appropriate, specific recommendations to States parties to avail themselves of the advisory services and technical assistance programme of the Centre for Human Rights concerning, for example, possible technical assistance in the drafting of legislation or the training of officials in international human rights norms.

(d) The Committee could submit information to the Secretary-General as a contribution to the early-warning mechanism to be established pursuant to General Assembly resolution 47/120, section II (1).

(e) Committee members could be drawn upon as a resource in the relevant activities of the Centre for Human Rights. It should be noted that the Commission on Human Rights, in its resolution 1993/24 of 5 March 1993 entitled "Rights of persons belonging to national or ethnic, religious and linguistic minorities", called upon the Secretary-General to make available, at the request of Governments, as part of the programme of advisory services and technical assistance, qualified experts familiar with minority issues, as well as the prevention, resolution and/or management of disputes, to assist in existing or potential situations involving minorities (para. 4).

(f) Greater cooperation could be developed with regional arrangements for the promotion and protection of human rights. In this regard, it should be noted that the Commission on Human Rights in its resolution 1993/57 of

9 March 1993, entitled "Regional arrangements for the promotion and protection of human rights", invited the treaty bodies of the major international human rights instruments to explore ways to increase the exchange of information and cooperation with regional human rights mechanisms (para. 13). Such cooperation would enhance the Committee's information base and facilitate follow-up of the Committee's recommendations.

(g) The Committee could take a more active approach in encouraging international assistance for the promotion and protection of human rights relating to racial discrimination.

Urgent procedures

(h) The Committee could establish an urgent procedure to request, in accordance with article 9, paragraph 1, of the Convention, the urgent submission of a special report concerning measures taken to prevent a serious, massive or persistent pattern of racial discrimination. Such a procedure could be modelled on recent innovations adopted by other treaty bodies.

(i) The Committee could designate a special rapporteur to act as a focal point for monitoring critical situations, consult with the Chairman of the Committee to initiate the urgent action procedure and to follow up when decisions have been taken.

(j) The Committee could address an expression of its concern, along with recommendations for action, to:

(i) The State party concerned;

(ii) The Special Rapporteur established under Commission on Human Rights resolution 1993/20;

(iii) The Secretary-General for the attention of the early-warning mechanism to be established pursuant to General Assembly resolution 47/120, section II (1);

(iv) All other human rights bodies dealing with the question concerned;

(v) The Secretary-General, along with a recommendation that the matter be brought to the attention of the Security Council.

C. Other measures which could be taken within the framework of prevention of racial discrimination

11. The Committee could try to arrange short informal meetings at the regional and national levels, with the support of United Nations agencies and organs. The purpose of these meetings would be to promote greater awareness of international human rights standards and facilitate a deeper understanding of the work of the treaty body system. Direct contact with officials, human rights organizations and agencies at the regional or national levels would more effectively sensitize the Committee members themselves regarding the actual human rights conditions prevailing in the regions. This could be accomplished in the context of informal meetings not requiring full conference services but organized through the Centre for Human Rights and supported, in part, by appropriate United Nations agencies and organs. Additionally, seminars could be organized as contained in the recommended programme of action for a third decade to combat racism and racial discrimination (see Commission on Human Rights resolution 1993/11, annex). In particular, such seminars could focus on: the

relationship between violence and racism; the involvement of youth in contemporary forms of racism; measures to eliminate racist propaganda; and problems relating to refugee flows arising from ethnic conflicts and political change.

D. Conclusion

12. The Committee adopts this paper on preventive action, including early warning and urgent procedures, to guide it in its future work. The Committee requests the Secretariat to submit draft procedures in this regard to the Committee for consideration at its forty-third session.

ANNEX IV

Opinion of the Committee on the Elimination of Racial Discrimination

Communication No. 4/1991, L.K. v. The Netherlands

(Opinion adopted on 16 March 1993 at the forty-second session)

Submitted by:	L.K.* [represented by counsel]
State party:	The Netherlands
Date of communication:	6 December 1991 (date of initial letter)

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 16 March 1993,

Having decided, under rule 94, paragraph 7, of its rules of procedure to deal jointly with the question of admissibility and the merits of the communication,

Having ascertained that the communication meets the criteria for being declared admissible,

Having concluded its consideration of communication No. 4/1991, submitted to the Committee by L.K. under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Having taken into consideration all written information made available to it on behalf of L.K. and by the State party,

Bearing in mind rule 95 of its rules of procedure requiring it to formulate its opinion on the communication before it,

Adopts the following:

OPINION

1. The author of the communication (dated 6 December 1991) is L.K., a Moroccan citizen currently residing in Utrecht, the Netherlands. He claims to be a victim of violations by the Netherlands of articles 2, paragraph 1 (d); 4 litera (c), 5 litera (d) (i) and litera (e) (iii); and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination. The author is represented by counsel.

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* At his request, the name of the author is not disclosed.

The facts as found by the Committee:

2.1 On 9 August 1989, the author, who is partially disabled, visited a house for which a lease had been offered to him and his family, in the Nicholas Ruychaverstraat, a street with municipal subsidized housing in Utrecht. He was accompanied by a friend, A.B. When they arrived, some 20 people had gathered outside the house. During the visit, the author heard several of them both say and shout: "No more foreigners". Others intimated to him that if he were to accept the house, they would set fire to it and damage his car. The author and A.B. then returned to the Municipal Housing Office and asked the official responsible for the file to accompany them to the street. There, several local inhabitants told the official that they could not accept the author as their neighbour, owing to a presumed rule that no more than 5 per cent of the street's inhabitants should be foreigners. Told that no such rule existed, street residents drafted a petition, which noted that the author could not be accepted and recommended that another house be allocated to his family.

2.2 On the same day, the author filed a complaint with the municipal police of Utrecht, on the ground that he had been the victim of racial discrimination under article 137 (literae (c) and (d)) of the Criminal Code (Wetboek van Strafrecht). The complaint was directed against all those who had signed the petition and those who had gathered outside the house. He submits that initially, the police officer refused to register the complaint, and that it took mediation by a local anti-discrimination group before the police agreed to prepare a report.

2.3 The State party's version of the facts coincides to a large extent with that given by the author, with some differences. According to the State party, the author visited the house allocated to him by the Municipality of Utrecht twice, once on 8 August 1989, together with an official of the Utrecht Municipal Housing Department, and again on 9 August 1989 with a friend. During the first visit, the official started a conversation with a local resident, a woman, who objected to the author as a future tenant and neighbour. During the conversation, several other residents approached and made remarks such as "We've got enough foreigners in this street" and "They wave knives about and you don't even feel safe in your own street". While the author was no longer present when these remarks were made, the Housing Department official was told that the house would be set on fire as soon as the prior tenant's lease had expired. As to the second visit, it is submitted that when the author arrived at the house with a friend, A.B., a group of local residents had already gathered to protest against the potential arrival of another foreigner. When the author remained reluctant to reject the Housing Department's offer the residents collected signatures on a petition. Signed by a total of 28 local residents, it bore the inscription "Not accepted because of poverty? Another house for the family please?", and was forwarded to the Housing Department official.

2.4 In response to the complaint of 9 August 1989, the police prepared a report on the incident (Proces-Verbal No. 4239/89) on 25 September 1989; according to the State party, 17 out of the 28 residents who had signed the petition had been questioned by the police, and 11 could not be contacted before the police report was finalized.

2.5 In the meantime, the author's lawyer had apprised the prosecutor at the District Court of Utrecht of the matter and requested access to all the documents in the file. On 2 October 1989, the prosecutor forwarded these documents, but on 23 November 1989 he informed the author that the matter had not been registered as a criminal case with his office, because it was not certain that a criminal offence had taken place. On 4 January 1990, therefore, counsel requested the Court of Appeal of Amsterdam (Gerechtshof) to order the prosecution of the "group of residents of the Nicholas Ruychaverstraat in Utrecht" for racial discrimination, pursuant to article 12 of the Code of Criminal Procedure.

2.6 Counsel submits that, after several months, he was informed that the Registry of the Court of Appeal had indeed received the case file on 15 January 1990. On an unspecified date but shortly thereafter, the Prosecutor-General at the Court of Appeal had requested further information from the District Court Prosecutor, which was supplied rapidly. However, it was not until 10 April 1991 that counsel was able to consult the supplementary information, although he had sought to obtain it on several occasions between 15 February 1990 and 15 February 1991. It was only after he threatened to apply for an immediate judgement in tort proceedings against the prosecutor at the Court of Appeal that the case was put on the Court agenda for 10 April 1991. On 5 March 1991, the Prosecutor-General at the Court of Appeal asked the Court to declare the complaint unfounded or to refuse to hear it on public interest grounds.

2.7 Before the Court of Appeal, it transpired that only two of the street's inhabitants had actually been summoned to appear; they did not appear personally but were represented. By judgement of 10 June 1991, the Court of Appeal dismissed the author's request. It held *inter alia* that the petition was not a document of deliberately insulting nature, nor a document that was inciting to racial discrimination within the meaning of article 137, literae (c) and (e), of the Criminal Code. In this context, the Court of Appeal held that the heading to the petition - which, taking into account statements made during the hearing and to the police, should be interpreted as meaning "Not accepted because of a fight? Another house for the family please?" - could not be considered to be insulting or as an incitement to racial discrimination, however regrettable and undesirable it might have been.

2.8 Under article 12 of the Code of Criminal Procedure, counsel requested the Prosecutor-General at the Supreme Court to seek the annulment of the decision of the Court of Appeal, in the interest of law. On 9 July 1991, the request was rejected. As a last resort, counsel wrote to the Minister of Justice, asking him to order the prosecutor to initiate proceedings in the case. The Minister replied that he could not grant the request, as the Court of Appeal had fully reviewed the case and there was no scope for further proceedings under article 12 of the Code of Criminal Procedure. However, the Minister asked the Chief Public Prosecutor in Utrecht to raise the problems encountered by the author in tripartite consultations between the Chief Public Prosecutor, the Mayor and the Chief of the Municipal Police of Utrecht. At such tripartite consultations on 21 January 1992, it was agreed that anti-discrimination policy would receive priority attention.

The complaint:

3.1 The author submits that the remarks and statements of the residents of the street constitute acts of racial discrimination within the meaning of article 1, paragraph 1, of the Convention, as well as of article 137, literae (c), (d), and (e), of the Dutch Criminal Code; the latter provisions prohibit public insults of a group of people solely on the basis of their race, public incitement of hatred against people on account of their race, and the publication of documents containing racial insults of a group of people.

3.2 The author contends that the judicial authorities and the public prosecutor did not properly examine all the relevant facts of the case or at least did not formulate a motivated decision in respect of his complaint. In particular, he submits that the police investigation was neither thorough nor complete. Thus, A.B. was not questioned; and street residents were only questioned in connection with the petition, not with the events outside the house visited by the author on 8/9 August 1989. Secondly, the author contends that the decision of the prosecutor not to institute criminal proceedings remained unmotivated. Thirdly, the prosecutor is said to have made misleading statements in an interview to a local newspaper in December 1989, in respect of the purported intentions of the street residents vis-à-vis the author. Fourthly, the Prosecutor-General at the Court of Appeal is said to have unjustifiably prolonged the proceedings by remaining inactive for over one year. Finally, the Court of Appeal itself is said to have relied on incomplete evidence.

3.3 Author's counsel asserts that the above reveals violations of articles 2, paragraph 1 (d), juncto 4 and 6; he observes that articles 4 and 6 must be read together with the first sentence and paragraph 1 litera (d) of article 2, which leads to the conclusion that the obligations of States parties to the Convention are not met if racial discrimination is merely criminalized. Counsel submits that although the freedom to prosecute or not to prosecute, known as the expediency principle, is not set aside by the Convention, the State party, by ratifying the Convention, accepted to treat instances of racial discrimination with particular attention, inter alia, by ensuring the speedy disposal of such cases by domestic judicial instances.

The State party's information and observations and counsel's comments:

4.1 The State party does not formulate objections to the admissibility of the communication and concedes that the author has exhausted available domestic remedies. It also acknowledges that article 137, literae (c), (d), and (e), of the Criminal Code are in principle applicable to the behaviour of the street's residents.

4.2 In respect of the contention that the police investigations of the case were incomplete, the State party argues that it is incorrect to claim that the residents of the street were questioned only about the petition. A number of residents made statements about the remark that a fire would be set if the author moved into the house. The State party also contends that although lapse of time makes it impossible to establish why A.B. was not called to give evidence before the Court of Appeal, it is "doubtful ... whether a statement from him would have shed a different light on the case. After all, no one disputes that the remarks objected to were made".

4.3 The State party similarly rejects the contention that the prosecutor did not sufficiently motivate the decision not to prosecute and that the interview given by the press officer of the prosecutor's office to an Utrecht newspaper on 6 December 1989 was incomplete and erroneous. Firstly, it observes that the decision not to prosecute was explained at length in the letter dated 25 June 1990 from the public prosecutor in Utrecht to the Prosecutor-General at the Amsterdam Court of Appeal, in the context of the author's complaint filed under article 12 of the Code of Criminal Procedure. Secondly, the interview of 6 December 1989 did not purport to reflect the opinion of the Public Prosecutor's Office but that of the residents of the street.

4.4 In respect of the contention that the proceedings before the Court of Appeal were unduly delayed, the State party considers that although the completion of the report by the Prosecutor-General took longer than anticipated and might be desirable, a delay of 15 months between lodging of the complaint and its hearing by the Court of Appeal did not reduce the effectiveness of the remedy; accordingly, the delay cannot be considered to constitute a violation of the Convention.

4.5 The State party observes that the Dutch legislation meets the requirements of article 2, paragraph 1 (d), of the Convention, by making racial discrimination a criminal offence under articles 137, litera (c) et seq. of the Criminal Code. For any criminal offence to be prosecuted, however, there must be sufficient evidence to warrant prosecution. In the Government's opinion, there can be no question of a violation of articles 4 and 6 of the Convention because, as set out in the public prosecutor's letter of 25 June 1990, it had not been sufficiently established that any criminal offence had been committed on 8 and 9 August 1989, or who had been involved.

4.6 In the State party's opinion, the fact that racial discrimination has been criminalized under the Criminal Code is sufficient to establish compliance with the obligation in article 4 of the Convention, since this provision cannot be read to mean that proceedings are instituted in respect of every type of conduct to which the provision may apply. In this context, the State party notes that decisions to prosecute are taken in accordance with the expediency principle, and refers to the Committee's opinion on communication 1/1984 addressing the meaning of this very principle. a/ The author was able to avail himself of an effective remedy, in accordance with article 6 of the Convention, because he could and did file a complaint pursuant to article 12 of the Code of Criminal Procedure, against the prosecutor's refusal to prosecute. The State party emphasizes that the review of the case by the Court of Appeal was comprehensive and not limited in scope.

4.7 Finally, the State party denies that it violated article 5 (d) (i) and (e) (iii) of the Convention vis-à-vis the author; the author's right to freely choose his place of residence was never impaired, either before or after the events of August 1989. In this context, the State party refers to the Committee's Opinion on communication No. 2/1989, where it was held that the rights enshrined in article 5 (e) of the Convention are subject to progressive implementation, and that it was "not within the Committee's mandate to see to it that these rights are established" but rather to monitor the implementation of these rights, once they have been granted on equal terms. b/ The State party points out that "appropriate rules have been drawn up to ensure an equitable distribution of housing ...", and that these rules were applied to the author's case.

5.1 In his comments, counsel challenges several of the State party's observations. Thus, he denies that the police inquiry was methodical and asserts that A.B. could and indeed would have pointed out those who made threatening and discriminatory remarks on 9 August 1989, had he been called to give evidence. Counsel further submits that he was not able to consult the public prosecutor's decision of 25 June 1990 not to institute criminal proceedings until 10 April 1991, the date of the hearing before the Court of Appeal.

5.2 Counsel takes issue with the State party's version of the prosecutor's interview of 6 December 1989 and asserts that if the press officer related the version of the street residents without any comment whatsoever, she thereby suggested that their account corresponded to what had in fact occurred. Finally, counsel reaffirms that the judicial authorities made no effort to handle the case expeditiously. He notes that criminal proceedings in The Netherlands should duly take into account the principles enshrined in article 6 of the European Convention on the Protection of Human Rights, of which the obligation to avoid undue delays in proceedings is one.

Issues and proceedings before the Committee:

6.1 Before considering any claims contained in a communication, the Committee on the Elimination of Racial Discrimination must, in accordance with rule 91 of its rules of procedure, decide whether or not it is admissible under the Convention. Under rule 94, paragraph 7, the Committee may, in appropriate cases and with the consent of the parties concerned, join consideration of the admissibility and of the merits of a communication. The Committee notes that the State party does not raise objections to the admissibility of the communication, and that it has formulated detailed observations in respect of the substance of the matter under consideration. In the circumstances, the Committee decides to join consideration of admissibility and consideration of the merits of the communication.

6.2 The Committee has ascertained, as it is required to do under rule 91, that the communication meets the admissibility criteria set out therein. It is, therefore, declared admissible.

6.3 The Committee finds on the basis of the information before it that the remarks and threats made on 8 and 9 August 1989 to L.K. constituted incitement to racial discrimination and to acts of violence against persons of another colour or ethnic origin, contrary to article 4 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination, and that the investigation into these incidents by the police and prosecution authorities was incomplete.

6.4 The Committee cannot accept any claim that the enactment of law making racial discrimination a criminal act in itself represents full compliance with the obligations of States parties under the Convention.

6.5 The Committee reaffirms its view as stated in its Opinion on Communication No. 1/1984 of 10 August 1987 (Yilmaz-Dogan v. The Netherlands) that "the freedom to prosecute criminal offenses - commonly known as the expediency principle - is governed by considerations of public policy and notes that the Convention cannot be interpreted as challenging the raison d'être of that principle. Notwithstanding, it should be applied in each case of alleged racial discrimination in the light of the guarantees laid down in the Convention".

6.6 When threats of racial violence are made, and especially when they are made in public and by a group, it is incumbent upon the State to investigate with due diligence and expedition. In the instant case, the State party failed to do this.

6.7 The Committee finds that in view of the inadequate response to the incidents, the police and judicial proceedings in this case did not afford the applicant effective protection and remedies within the meaning of article 6 of the Convention.

6.8 The Committee recommends that the State party review its policy and procedures concerning the decision to prosecute in cases of alleged racial discrimination, in the light of its obligations under article 4 of the Convention.

6.9 The Committee further recommends that the State party provide the applicant with relief commensurate with the moral damage he has suffered.

7. Pursuant to rule 95, paragraph 5, of its rules of procedure, the Committee invites the State party, in its next periodic report under article 9, paragraph 1, of the Convention, to inform the Committee about any action it has taken with respect to the recommendations set out in paragraphs 6.8 and 6.9 above.

Notes

[a] Yilmaz-Dogan v. The Netherlands, Opinion of 10 August 1988, paragraph 9.4.

[b] D.T. Diop v. France, Opinion of 18 March 1991, paragraph 6.4.

ANNEX V

Amended rules of procedure

1. At its 977th meeting, held on 16 March 1993, the Committee on the Elimination of Racial Discrimination amended its rules of procedure with respect to its working methods under article 14 of the Convention. The following changes were made:

(a) A new paragraph 3 was added to rule 87. The text of rule 87 as amended reads as follows:

Establishment of a working group

Rule 87

> 1. The Committee may, in accordance with rule 61, set up a Working Group to meet shortly before its sessions, or at any other convenient time to be decided by the Committee in consultation with the Secretary-General, for the purpose of making recommendations to the Committee regarding the fulfilment of the conditions of admissibility of communications laid down in article 14 of the Convention and assisting the Committee in any manner which the Committee may decide.
>
> 2. The Working Group shall not comprise more than five members of the Committee. The Working Group shall elect its own officers, develop its own working methods, and apply as far as possible the rules of procedure of the Committee to its meetings.
>
> 3. The Committee may designate a special rapporteur from among its members to assist it in the handling of new communications.

(b) A new sentence was added to rule 92, paragraph 1. The text of rule 92 as amended reads as follows:

Additional information, clarifications and observations

Rule 92

> 1. The Committee or the Working Group established under rule 87 may request, through the Secretary-General, the State party concerned or the author of the communication to submit additional written information or clarifications relevant to the question of admissibility of the communication. A request for information may also emanate from a special rapporteur designated under rule 87, paragraph 3.
>
> 2. Such requests shall contain a statement to the effect that the request does not imply that a decision has been reached on the question of admissibility of the communication by the Committee.
>
> 3. A communication may not be declared admissible unless the State party concerned has received the text of the communication and has been given an opportunity to furnish information or observations as provided in paragraph 1 of this rule, including information relating to the exhaustion of domestic remedies.

4. The Committee or the Working Group may adopt a questionnaire for requesting such additional information or clarifications.

5. The Committee or the Working Group shall indicate a deadline for the submission of such additional information or clarification.

6. If the deadline is not kept by the State party concerned or the author of a communication, the Committee or the Working Group may decide to consider the admissibility of the communication in the light of available information.

7. If the State party concerned disputes the contention of the author of a communication that all available domestic remedies have been exhausted, the State party is required to give details of the effective remedies available to the alleged victim in the particular circumstances of the case.

(c) A new paragraph 7 was added to rule 94. The text of the rules as amended reads as follows:

Method of dealing with admissible communications

Rule 94

1. After it has been decided that a communication is admissible, in conformity with article 14, the Committee shall transmit, confidentially, through the Secretary-General, the text of the communication and other relevant information to the State party concerned without revealing the identity of the individual unless he has given his express consent. The Committee shall also inform, through the Secretary-General, the petitioner of the communication of its decision.

2. The State party concerned shall submit within three months to the Committee written explanations or statements clarifying the case under consideration and the remedy, if any, that may have been taken by that State party. The Committee may indicate, if it deems it necessary, the type of information it wishes to receive from the State party concerned.

3. In the course of its consideration, the Committee may inform the State party of its views on the desirability, because of urgency, of taking interim measures to avoid possible irreparable damage to the person or persons who claim to be victim(s) of the alleged violation. In doing so, the Committee shall inform the State party concerned that such expression of its views on interim measures does not prejudge either its final opinion on the merits of the communication or its eventual suggestions and recommendations.

4. Any explanations or statements submitted by a State party pursuant to this rule may be transmitted, through the Secretary-General, to the petitioner of the communication who may submit any additional written information or observations within such time-limit as the Committee shall decide.

5. The Committee may invite the presence of the petitioner or his representative and the presence of representatives of the State party concerned in order to provide additional information or to answer questions on the merits of the communication.

6. The Committee may revoke its decision that a communication is admissible in the light of any explanations or statements submitted by the State party. However, before the Committee considers revoking that decision, the explanations or statements concerned must be transmitted to the petitioner so that he may submit additional information or observations within the time-limit set by the Committee.

7. The Committee may, in appropriate cases and with the consent of the parties concerned, decide to deal jointly with the question of admissibility and the merits of a communication.

ANNEX VI

Letter to the Secretary-General

19 March 1993

Sir,

The Committee on the Elimination of Racial Discrimination, at its forty-second session held from 1 to 19 March 1993, considered in depth your observations and recommendations contained in An Agenda for Peace and in your report on the work of the Organization to the forty-seventh session of the General Assembly concerning early warning and preventive measures in respect of massive violations of human rights before they occur.

The Committee also considered the conclusion reached by the fourth meeting of persons chairing the human rights treaty bodies that each body should undertake an urgent examination of all possible measures that it might take, within its competence, both to prevent human rights violations from occurring and to monitor more closely emergency situations of all kinds arising within the jurisdiction of States parties (A/47/628, para. 44).

Document CERD/C/1993/Misc.1/Rev.2*, which you will find attached to this letter, sets forth the early warning measures and urgent procedures which the Committee could adopt to respond to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the International Convention on the Elimination of All Forms of Racial Discrimination. This document also sets forth other measures which could be taken within the framework of prevention of racial discrimination.

The Committee has adopted this paper on preventive action, including early warning and urgent procedures, to guide it in its future work.

Accept, Sir, the assurances of my highest consideration.

(Signed) Luis Valencia Rodriguez
Chairman
Committee on the Elimination
of Racial Discrimination

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* See text of annex III.

ANNEX VII

Letter to the Chairman of the Commission on Human Rights

11 March 1993

Sir,

The Committee on the Elimination of Racial Discrimination has noted that the Commission on Human Rights adopted on 2 March 1993 resolution 1993/20 on measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance. In this resolution, the Commission recommended to the Economic and Social Council that the Council approve the Commission's decision to appoint, for a three-year period, a thematic special rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

The Committee on the Elimination of Racial Discrimination, fully aware of and deeply concerned about the serious nature and the alarming dimensions of racism and racial discrimination in their various forms, including their new expressions, welcomes vigorous international action to combat all forms of racism and racial discrimination and consequently appreciates the Commission's decision to appoint a special rapporteur. The Committee was established as the supervisory mechanism to promote and monitor the implementation of the International Convention on the Elimination of all Forms of Racial Discrimination, the most widely ratified human rights treaty in the framework of the United Nations. Over 23 years the Committee has gained a great deal of experience and understanding concerning problems related to racism and racial discrimination. The scope of the Committee's work is governed by the comprehensive definition of the term "racial discrimination" set out in article 1 of the Convention.

While the Committee has a special responsibility to carry out the mandate entrusted to it by the International Convention on the Elimination of All Forms of Racial Discrimination, it also contributes in a broader sense to activities aimed at the promotion and protection of human rights and the eradication of racism and racial discrimination, as envisaged in the programmes of action of the decades to combat racism and racial discrimination. For this purpose, the Committee has established cooperative relationships with the other human rights treaty bodies and with human rights policy organs, including the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities.

On the basis of these cooperative relationships and in order to strengthen the impact and the effectiveness of international action to combat racism and racial discrimination, the Committee on the Elimination of Racial Discrimination wishes to convey to the Commission on Human Rights its full readiness to lend all necessary cooperation in matters of common concern and common responsibility. In particular, the Committee is ready to share with the Special Rapporteur of the Commission, when appointed, its experience and insights as

H.E. Mr. Mohammed Ennaceur
Chairman of the Forty-ninth Session
  of the Commission on Human Rights
Palais des Nations
Geneva

well as its documentation, and to develop effective and mutually beneficial methods of consultation and cooperation. As Chairman of the Committee, I will be available to discuss such modalities of consultation and cooperation at the earliest convenient time.

Accept, Sir, the assurances of my highest consideration.

(Signed) Luis Valencia Rodriguez
Chairman
Committee on the Elimination
of Racial Discrimination

ANNEX VIII

List of documents issued for the forty-second and forty-third sessions of the Committee

Forty-second session

CERD/C/145/Add.2	Fifth periodic report of the Sudan
CERD/C/149/Add.34	Ninth periodic report the Islamic Republic of Iran
CERD/C/168/Add.2	Sixth periodic report of the Sudan
CERD/C/172/Add.25	Tenth periodic report of the Islamic Republic of Iran
CERD/C/184/Add.10	Ninth periodic report of Tonga
CERD/C/193/Add.1	Seventh periodic report of the Sudan
CERD/C/197/Add.11	Eleventh periodic report of the Holy See
CERD/C/197/Add.12	Eleventh periodic report of Germany
CERD/C/197/Add.13	Eleventh periodic report of the Islamic Republic of Iran
CERD/C/207/Add.1	Eighth periodic report of Qatar
CERD/C/209/Add.5	Tenth periodic report of Tonga
CERD/C/210/Add.2	Eleventh periodic report of Canada
CERD/C/222/Add.1	Eighth periodic report of the Sudan
CERD/C/226/Add.4	Twelfth periodic report of the United Kingdom of Great Britain and Northern Ireland
CERD/C/226/Add.5	Twelfth periodic report of Kuwait
CERD/C/226/Add.6	Twelfth periodic report of the Holy See
CERD/C/226/Add.7	Twelfth periodic report of Germany
CERD/C/226/Add.8	Twelfth periodic report of the Islamic Republic of Iran
CERD/C/230	Initial reports of States parties due in 1993
CERD/C/231	Second periodic reports of States parties due in 1993
CERD/C/232	Third periodic reports of States parties due in 1993

CERD/C/233	Fifth periodic reports of States parties due in 1993
CERD/C/234	Sixth periodic reports of States parties due in 1993
CERD/C/235	Seventh periodic reports of States parties due in 1993
CERD/C/236	Eighth periodic reports of States parties due in 1993
CERD/C/237	Ninth periodic reports of States parties due in 1993
CERD/C/238	Tenth periodic reports of States parties due in 1993
CERD/C/239	Eleventh periodic reports of States parties due in 1993
CERD/C/239/Add.1	Eleventh periodic report of Sweden
CERD/C/240	Twelfth periodic reports of States parties due in 1993
CERD/C/241	Provisional agenda and annotations of the forty-second session of the Committee on the Elimination of Racial Discrimination
CERD/C/242	Submission of reports by States parties in accordance with article 9 of the Convention: note by the Secretary-General
CERD/C/243	Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention: note by the Secretary-General
CERD/C/SR.957-984	Summary records of the forty-second session of the Committee

Forty-third session

CERD/C/60/Rev.2	Reservations, declarations and statements of interpretation made by States parties to the International Convention on the Elimination of All Forms of Racial Discrimination: note by the Secretary-General
CERD/C/70/Rev.3	General guidelines regarding the form and contents of reports to be submitted by States parties under article 9, paragraph 1, of the Convention
CERD/C/126/Add.5	Second periodic report of Viet Nam

CERD/C/131/Add.15	Seventh periodic report of Zambia
CERD/C/149/Add.35	Ninth periodic report of Tunisia
CERD/C/153/Add.4	Third periodic report of Viet Nam
CERD/C/158/Add.12	Eighth periodic report of Zambia
CERD/C/159/Add.6	Ninth periodic report of Romania
CERD/C/171/Add.4	Ninth periodic report of Morocco
CERD/C/171/Add.5	Ninth periodic report of France
CERD/C/172/Add.26	Tenth periodic report of Nigeria
CERD/C/172/Add.27	Tenth periodic report of Kuwait
CERD/C/172/Add.28	Tenth periodic report of Tunisia
CERD/C/172/Add.29	Tenth periodic report of Spain
CERD/C/172/Add.30	Tenth periodic report of Iceland
CERD/C/179/Add.3	Fourth period report of Viet Nam
CERD/C/181/Add.1	Sixth periodic report of Luxembourg
CERD/C/184/Add.11	Ninth periodic report of Zambia
CERD/C/184/Add.12	Ninth periodic report of Senegal
CERD/C/185/Add.5	Tenth periodic report of Norway
CERD/C/185/Add.6	Tenth periodic report of Romania
CERD/C/196/Add.2	Tenth periodic report of Morocco
CERD/C/196/Add.3	Tenth periodic report of France
CERD/C/197/Add.14	Eleventh periodic report of Nigeria
CERD/C/197/Add.15	Eleventh periodic report of Kuwait
CERD/C/197/Add.16	Eleventh periodic report of Tunisia
CERD/C/197/Add.17	Eleventh periodic report of Spain
CERD/C/197/Add.18	Eleventh periodic report of Iceland
CERD/C/197/Add.19	Eleventh periodic report of Egypt
CERD/C/204/Add.1	Fifth periodic report of Viet Nam
CERD/C/206/Add.1	Seventh periodic report of Luxembourg
CERD/C/207/Add.2	Eighth periodic report of Italy
CERD/C/209/Add.6	Tenth periodic report of Zambia

CERD/C/209/Add.7	Tenth periodic report of Senegal
CERD/C/210/Add.3	Eleventh periodic report of Norway
CERD/C/210/Add.4	Eleventh periodic report of Romania
CERD/C/225/Add.1	Eleventh periodic report of Morocco
CERD/C/225/Add.2	Eleventh periodic report of France
CERD/C/226/Add.9	Twelfth periodic report of Nigeria
CERD/C/226/Add.10	Twelfth periodic report of Tunisia
CERD/C/226/Add.11	Twelfth periodic report of Spain
CERD/C/226/Add.12	Twelfth periodic report of Iceland
CERD/C/226/Add.13	Twelfth periodic report of Egypt
CERD/C/237/Add.1	Ninth periodic report of Italy
CERD/C/239/Add.2	Eleventh periodic report of Zambia
CERD/C/244	Provisional agenda and annotations of the forty-third session of the Committee on the Elimination of Racial Discrimination: note by the Secretary-General
CERD/C/245	Submission of reports by States parties in accordance with article 9 of the Convention: note by the Secretary-General
CERD/C/246	Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention: note by the Secretary-General
CERD/C/247	Report submitted by Bosnia and Herzegovina pursuant to a special decision taken by the Committee
CERD/C/248	Report submitted by the Federal Republic of Yugoslavia (Serbia and Montenegro) pursuant to a special decision taken by the Committee
CERD/C/249	Report submitted by Croatia pursuant to a special decision taken by the Committee
CERD/C/SR.985-1012	Summary records of the forty-third session of the Committee

ANNEX IX

Documents received by the Committee on the Elimination of Racial Discrimination at its forty-second and forty-third sessions, pursuant to decisions of the Trusteeship Council and the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in conformity with article 15 of the Convention

The following is a list of the working papers submitted by the Special Committee:

African Territories	Documents
Western Sahara	A/AC.109/1125
Atlantic Ocean and Caribbean Territories, including Gibraltar	
Anguilla	A/AC.109/1141
Bermuda	A/AC.109/1143
British Virgin Islands	A/AC.109/1142
Cayman Islands	A/AC.109/1138
Falkland Islands (Malvinas)	A/AC.109/1122 and Corr.1
Gibraltar	A/AC.109/1116
Montserrat	A/AC.109/1137
Turks and Caicos Islands	A/AC.109/1139
United States Virgin Islands	A/AC.109/1150
Virgin Islands	A/AC.109/1123
Pacific and Indian Ocean Territories	
American Samoa	A/AC.109/1145
East Timor	A/AC.109/1115
Guam	A/AC.109/1148
New Caledonia	A/AC.109/1120
Pitcairn	A/AC.109/1146
Tokelau	A/AC.109/1147

ANNEX X

Country rapporteurs for reports considered by the Committee at its forty-second and forty-third sessions

Reports considered by the Committee	Country rapporteur
ALGERIA Tenth periodic report (CERD/C/209/Add.4)	Mr. Ion Diaconu
BOSNIA AND HERZEGOVINA Information requested under article 9, paragraph 1, of the Convention (CERD/C/247)	Mrs. Shanti Sadiq Ali
CENTRAL AFRICAN REPUBLIC Seventh periodic report (CERD/C/117/Add.5)	Mrs. Shanti Sadiq Ali
CHAD Fourth periodic report (CERD/C/114/Add.3)	Mr. Régis de Gouttes
CROATIA Information requested under article 9, paragraph 1, of the Convention (CERD/C/249)	Mr. Mario Yutzis
ECUADOR Eleventh (CERD/C/197/Add.9) and twelfth periodic reports (CERD/C/226/Add.1)	Mr. Rüdiger Wolfrum
FEDERAL REPUBLIC OF YUGOSLAVIA (Serbia and Montenegro) Information requested under article 9, paragraph 1, of the Convention (CERD/C/248)	Mr. Theodoor van Boven
GERMANY Eleventh and twelfth period reports submitted in one document (CERD/C/226/Add.7)	Mr. Theodoor van Boven
HOLY SEE Twelfth periodic report (CERD/C/226/Add.6)	Mr. Rüdiger Wolfrum
IRAN, ISLAMIC REPUBLIC OF Ninth, tenth, eleventh and twelfth periodic reports submitted in one document (CERD/C/226/Add.8)	Mr. Ivan Garvalov
JAMAICA Fifth, sixth and seventh periodic reports submitted in one document (CERD/C/117/Add.4)	Mrs. Shanti Sadiq Ali
KUWAIT Twelfth periodic report (CERD/C/226/Add.5)	Mr. Theodoor van Boven
MOZAMBIQUE Initial report (CERD/C/111/Add.1)	Mrs. Shanti Sadiq Ali

NIGERIA Tenth, eleventh and twelfth periodic reports submitted in one document (CERD/C/226/Add.9)	Mrs. Shanti Sadiq Ali
PAPUA NEW GUINEA Initial report (CERD/C/101/Add.4)	Mr. Rüdiger Wolfrum
POLAND Tenth, eleventh and twelfth periodic reports submitted in one document (CERD/C/226/Add.2)	Mr. Rüdiger Wolfrum
QATAR Eighth periodic report (CERD/C/207/Add.1)	Mrs. Shanti Sadiq Ali
REPUBLIC OF KOREA Seventh periodic report (CERD/C/221/Add.1)	Mr. Song Shuhua
SUDAN Fifth, sixth, seventh and eighth periodic reports submitted in one document (CERD/C/222/Add.1)	Mrs. Shanti Sadiq Ali
TONGA Ninth and tenth periodic reports submitted in one document (CERD/C/209/Add.5)	Mr. Régis de Gouttes
UKRAINE Eleventh (CERD/C/197/Add.5) and twelfth periodic reports (CERD/C/226/Add.3)	Mr. Yuri Rechetov
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND Twelfth periodic report (CERD/C/226/Add.4)	Mr. Eduardo Ferrero Costa
VIET NAM Second, third, fourth and fifth periodic reports submitted in one document (CERD/C/204/Add.1)	Mr. Régis de Gouttes
ZAMBIA Seventh, eighth, ninth, tenth and eleventh periodic reports submitted in one document (CERD/C/239/Add.2)	Mr. George Lamptey

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